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No. 22] NEW DELHI, MAY 28—JUNE 3, 2017, SATURDAY/ JYAISTHA 7—JYAISTHA 13, 1939

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

विदेश मंत्रालय

(सी.पी.वी. प्रभाग)

नई दिल्ली, 17 मई, 2017

का.आ. 1341.—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 (1948 का 41) की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश ।

एतद्वारा, केंद्र सरकार भारत के दूतावास, मस्कत में श्री दर्शन सिंह नेगी, सहायक अनुभाग अधिकारी को दिनांक 17 मई, 2017 से सहायक कौंसुलर अधिकारी के तौर पर कौंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है ।

[सं. टी-4330/01/2016]

प्रकाश चन्द, निदेशक (कौंसुलर)

MINISTRY OF EXTERNAL AFFAIRS

(CPV DIVISION)

New Delhi, the 17th May, 2017

S.O. 1341.—Statutory Order in pursuance of clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Shri Darshan Singh Negi, Assistant Section Officer as Assistant Consular Officer in Embassy of India, Muscat to perform the Consular services with effect from 17th May, 2017.

[No. T-4330/01/2016]

PRAKASH CHAND, Director (Consular)

भारी उद्योग और लोक उद्यम मंत्रालय

(भारी उद्योग विभाग)

नई दिल्ली, 27 फरवरी, 2017

का.आ. 1342.—सार्वजनिक परिसर (अनधिकृत रहने वालों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार एतद्वारा नीचे दी गई सारणी के कॉलम-1 में उल्लिखित अधिकारियों को, राजपत्रित अधिकारी के समकक्ष होने के नाते, उक्त अधिनियम के प्रयोजनों के लिए संपदा अधिकारी नियुक्त करती है, जो प्रदत्त शक्तियों का प्रयोग करेंगे और उक्त सारणी के कॉलम-2 में विनिर्दिष्ट सार्वजनिक परिसरों के संबंध में अपने अधिकार-क्षेत्र की संपदाओं के संबंध में कर्तव्यों का पालन करेंगे।

अधिकारी का नाम व पदनाम	सार्वजनिक परिसरों के वर्ग तथा अधिकार-क्षेत्र की स्थानीय सीमाएं
श्री स्वरूप लाल मित्रा, प्रबंधक (आंतरिक लेखा परीक्षा एवं सचिवालय), एण्ड्रू यूल कंपनी लिमिटेड, 8, डॉ. राजेन्द्र प्रसाद सरणी, कोलकाता-700001	<p>i). हिन्दुस्तान केबल्स लिमिटेड, रूपनारायणपुर इकाई, एचसीएल, क्षेत्रीय कार्यालय, 116ए, रास बिहारी एवेन्यू, कोलकाता-700029 से संबंधित परिसर।</p> <p>ii). 315, जोधपुर पार्क, कोलकाता-700068 स्थित परिसर</p> <p>iii). गोल्फ लिंक अपार्टमेंट्स, 50 चाँदीतला लेन, कोलकाता-700040 (ओ. जे. फ्लैट सं. ई-1, ई-2 और एल-2) स्थित चार फ्लैट्स</p> <p>iv). मशीन टूल्स वर्क्स, पी.ओ. नरेन्द्रपुर-700103 स्थित परिसर।</p> <p>v). हैदराबाद इकाई, पी.ओ. हैदराबाद केबल्स, हैदराबाद-500051 से संबंधित सभी परिसर/फ्लैट।</p> <p>vi). जूही हाउसिंग स्कीम, इलाहाबाद स्थित पांच फ्लैट (फ्लैट सं. 68, 36, 45, 46 और 38) तथा इलाहाबाद स्थित एचसीएल की नैनी इकाई से संबंधित अग्निपथ आवास योजना, इलाहाबाद में दो फ्लैट (फ्लैट सं. ए-17 और ए-19)</p> <p>vii). क्षेत्रीय कार्यालय, नई दिल्ली, ए-40, रंजीत सिंह ब्लॉक, एशियन गेम्स विलेज, नई दिल्ली-110049 स्थित परिसर।</p>

[फा. सं.1(12)/2008-पीई-II]

एल. सी. राम, अवर सचिव

MINISTRY OF HEAVY INDUSTRY AND PUBLIC ENTERPRISES

(Department of Heavy Industry)

New Delhi, the 27th February, 2017

S.O. 1342.—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby appoints the officer mentioned in column 1 of the

Table below, being office, equivalent to rank of gazetted officer of Government, to be an Estate Officer for the purpose of the said Act, who shall exercise the powers conferred and perform the duties imposed on the Estates of his jurisdiction in respect of the public premises specified in column 2 of the said Table in supersession of all previous notifications issued in regard to Hindustan Cables Limited.

Name & Designation of the officer	Categories of public premises and local limits of jurisdiction
Shri Swarup Lal Mitra, Manager, (Internal Audit and Secretarial) of Andrew Yule Company Limited, Kolkata	<p>i) Premises belonging to the undertaking of Hindustan Cables Ltd., Rupnarainpur Unit Township as well as premises of HCL, Regional Office, Kolkata.</p> <p>ii) Premises at 315, Jodhpur Park, Kolkata-700068</p> <p>iii) 4 Flats (Flat Nos. J.O., E-1, E-2 and L-2) at Golf Link Apartments, 50 Chanditala Lane, Kolkata-700040.</p> <p>iv) Machine Tool Works, P.O. Narendrapur-700103.</p> <p>v) All premises/Flats belonging to Hyderabad Unit, P.O. Hyderabad Cables, Hyderabad-500051</p> <p>vi) Five Flats (Flat nos. 68,36,45,46 and 38) at Juhi Housing Scheme, Allahabad and 2 Flats (Flat nos. A-17, and A-19) at Agnipath Awas Yojna, Allahabad belonging to Naini Unit of HCL at Allahabad.</p> <p>vii) Premises at Regional Office, New Delhi, A-40, Ranjit Singh Block, Asian Games Village, New Delhi-110049.</p>

[F. No. 1(12)/2008-PE-II]

L. C. RAM, Under Secy.

नागर विमानन मंत्रालय

नई दिल्ली, 22 मई, 2017

का.आ. 1343.—इस मंत्रालय के दिनांक 06.08.2012 की अधिसूचना सं. एवी-24011/3/2011-एएआई के क्रम में, केंद्र सरकार एतद्वारा श्री एस. सुरेश को सदस्य (वित्त), भारतीय विमानपत्तन प्राधिकरण के पद पर उनके कार्यकाल को वेतनमान रुपये 75,000-1,00,000/- में, 31.07.2017 से आगे 31.03.2020 तक, अर्थात् उनकी सेवानिवृत्ति की तारीख, अथवा आगामी आदेशों तक, जो पहले हो, तक बढ़ाया जाता है।

[फा. सं. एवी-24011/22/2016-एएआई-मोका]

पी. जे. थॉमस, अवर सचिव

MINISTRY OF CIVIL AVIATION

New Delhi, the 22nd May, 2017

S.O. 1343.—In continuation of this Ministry's Notification No.AV-24011/3/2011-AAI dated 06.08.2012, the Central Government hereby extend the tenure of Shri S. Suresh as Member (Finance), Airports Authority of India in the scale of pay of Rs.75,000-1,00,000/- beyond 31.07.2017 till 31.03.2020, i.e. the date of his superannuation, or until further orders, whichever is earlier.

[F. No. AV-24011/22/2016-AAI-MOCA]

P. J. THOMAS, Under Secy.

नई दिल्ली, 31 मई, 2017

का.आ. 1344.—भारत के राष्ट्रपति, एअर इंडिया लिमिटेड के कंपनी नियम के अनुच्छेद 98 में प्रदत्त शक्तियों का प्रयोग करते हुए, निम्नलिखित दो व्यक्तियों को इस अधिसूचना के जारी होने की तारीख से 3 वर्षों की अवधि के लिए अथवा आगामी आदेशों तक, जो भी पहले हो, एअर इंडिया लिमिटेड के निदेशक मंडल में अंशकालिक गैर-सरकारी निदेशक के रूप में नियुक्त करते हैं।

- (i) श्री आर. के. त्यागी, पूर्व अध्यक्ष, हिंदुस्तान एयरोनॉटिक्स लिमिटेड
- (ii) श्री सईद ज़फर इस्लाम, पूर्व प्रबंध निदेशक, ड्यूश बैंक

[सं. एवी-18013/007/2007-एआई]

चंद्र किशोर शुक्ला, अवर सचिव

New Delhi, the 31st May, 2017

S.O. 1344.—In exercise of the powers conferred under Section 98 of the Articles of Association of the Air India Limited, the President is pleased to appoint the following two persons as part-time non-official Director on the Board of Air India Limited for a period of 3 years from the date of issue of this Notification or until further orders, whichever event occurs earlier.

- (i) Shri R. K. Tyagi, Ex-Chairman, Hindustan Aeronautics Limited
- (ii) Shri Syed, Zafar Islam, Ex MD, Deutsche Bank

[No. AV-18013/007/2007-AI]

CHANDRA KISHORE SHUKLA, Under Secy.

मानव संसाधन विकास मंत्रालय

(स्कूल शिक्षा और साक्षरता विभाग)

(एनएलएम-IV अनुभाग)

नई दिल्ली, 31 मई, 2017

का.आ. 1345.—भारत सरकार की दिनांक 20.11.2013 की अधिसूचना सं.-एफ-46-3/2008-एई-4/एनएलएम-IV द्वारा गठित राष्ट्रीय साक्षरता मिशन प्राधिकरण (एनएलएमए) की कार्यकारी समिति की कार्यावधि समाप्त होने और भारत सरकार के दिनांक 20.06.1988 के संकल्प सं. एफ 9-5/87-एई-1 (दिनांक 13.12.1994 के संकल्प सं. एफ 9-18/94-एई-1, दिनांक 21.04.1997 के संकल्प सं. एफ 9-7/97-एई-1, दिनांक 02.09.2004 के संकल्प सं. एफ 14-2/2004-एई-1 के द्वारा आगे और संशोधित) के पैरा 4 में प्रत्यायोजित शक्तियों का प्रयोग करते हुए सक्षम प्राधिकारी के अनुमोदन से यह निर्णय लिया गया है कि निम्नलिखित सदस्यों के साथ कार्यकारी समिति को पुनर्गठित किया जाए।

क. सचिव,
स्कूल शिक्षा और साक्षरता विभाग,
मानव संसाधन विकास मंत्रालय,
भारत सरकार,
नई दिल्ली

अध्यक्ष

ख. पदेन-सदस्य

1. सचिव,
स्वास्थ्य एवं परिवार कल्याण विभाग,
स्वास्थ्य एवं परिवार कल्याण मंत्रालय,
भारत सरकार

2. सचिव,
ग्रामीण विकास विभाग,
ग्रामीण विकास मंत्रालय,
भारत सरकार
3. सचिव,
पंचायती राज विभाग,
पंचायती राज मंत्रालय,
भारत सरकार
4. सचिव,
महिला तथा बाल विकास मंत्रालय,
भारत सरकार
5. सचिव,
युवा कार्यक्रम विभाग,
युवा कार्यक्रम और खेल मंत्रालय
भारत सरकार
6. सचिव,
खेल-कूद विभाग,
युवा कार्यक्रम और खेल मंत्रालय
भारत सरकार
7. सचिव,
सामाजिक न्याय तथा अधिकारिता मंत्रालय,
भारत सरकार
8. सचिव,
कृषि सहकारिता तथा किसान कल्याण विभाग,
कृषि एवं किसान कल्याण मंत्रालय,
भारत सरकार
9. सचिव,
पशुपालन, डेयरी और मत्स्य पालन विभाग,
कृषि एवं किसान कल्याण मंत्रालय,
भारत सरकार
10. संयुक्त सचिव तथा वित्तीय सलाहकार,
मानव संसाधन विकास मंत्रालय,
भारत सरकार,
नई दिल्ली
11. सलाहकार (शिक्षा),
नीति आयोग,
भारत सरकार,
नई दिल्ली
12. अध्यक्ष,
राष्ट्रीय मुक्त शिक्षा संस्थान (एनआईओएस), नोएडा, (यू.पी.)

13. निदेशक,
प्रौढ शिक्षा निदेशालय (डीएई),
नई दिल्ली
- ग. गैर-आधिकारिक सदस्य
1. कुलपति, इंदिरा गांधी राष्ट्रीय मुक्त विश्वविद्यालय (इग्यू), नई दिल्ली
 2. कार्यक्रम सलाहकार, राष्ट्रीय सेवा योजना (एनएसएस)
- घ. राज्य संसाधन केन्द्रों (4) के प्रतिनिधि
1. निदेशक, एसआरसी, केरल
 2. निदेशक, एसआरसी, दिसपुर, असम
 3. निदेशक, एसआरसी, तमिलनाडु
 4. निदेशक, एसआरसी, इंदौर, मध्य प्रदेश
- ङ. जन शिक्षण संस्थाओं (3) के प्रतिनिधि
1. निदेशक, जेएसएस, चित्रकूट, उ.प्र.
 2. निदेशक, जेएसएस, जोरहाट, असम
 3. निदेशक, जेएसएस, गोवा
- च. एसएलएमए (5) के सदस्य/सचिव
1. सदस्य सचिव, एसएलएमए, आंध्र प्रदेश
 2. सदस्य सचिव, एसएलएमए, राजस्थान
 3. सदस्य सचिव, एसएलएमए, उत्तर प्रदेश
 4. सदस्य सचिव, एसएलएमए, बिहार
 5. सदस्य सचिव, एसएलएमए, हरियाणा
- छ. सदस्य सचिव
- संयुक्त सचिव तथा पदेन महानिदेशक,
राष्ट्रीय साक्षरता मिशन प्राधिकरण,
स्कूल शिक्षा और साक्षरता विभाग,
मानव संसाधन विकास मंत्रालय
2. कार्यकारी समिति का कार्यकाल इस अधिसूचना की तारीख से दो वर्ष की अवधि के लिए होगा।
 3. कार्यकारी समिति के गैर-आधिकारिक सदस्य, कार्यकारी समिति की बैठक में भाग लेने के लिए हवाई यात्रा (इकोनॉमी क्लास) के पात्र होंगे।

[सं.एफ. 46-3/2008-एई-4/एनएलएम-4]

जुगलाल सिंह, उप सचिव

MINISTRY OF HUMAN RESOURCE DEVELOPMENT**(Department of School Education and Literacy)**

(NLM-IV Section)

New Delhi, the 31st May, 2017

S.O. 1345.—On expiry of the term of the Executive Committee of the National Literacy Mission Authority (NLMA) constituted vide Government of India's Notification No. F-46-3/2008-AE-4/NLM-IV dated 20-11-2013 and in exercise of powers delegated in para 4 of Government of India Resolution No. F.9-5/87-AE-I dated 20.06.1988 (modified further vide Resolution No. F.9-18/94-AE-1 dated 13-12-1994, F.9-7/97-AE-1 dated 21-4-1997, F.14-2/2004-AE-1 dated 2-9-2004), it has been decided with the approval of the Competent Authority to reconstitute the Executive Committee with the following members.

- A.** Secretary,
Department of School Education & Literacy
Ministry of Human Resource Development,
Government of India,
New Delhi
- Chairperson
- B. Ex-Officio Members**
1. Secretary,
Department of Health & Family Welfare,
Ministry of Health & Family Welfare,
Government of India.
 2. Secretary,
Department of Rural Development,
Ministry of Rural Development,
Government of India.
 3. Secretary,
Department of Panchayati Raj,
Ministry of Panchayati Raj,
Government of India.
 4. Secretary,
Ministry of Women & Child Development,
Government of India,
 5. Secretary,
Department of Youth Affairs,
Ministry of Youth Affairs & Sports,
Government of India,
 6. Secretary,
Department of Sports,
Ministry of Youth Affairs & Sports,
Government of India,
 7. Secretary,
Ministry of Social Justice & Empowerment,
Government of India,
 8. Secretary,
Department of Agriculture Cooperation & Farmers Welfare
Ministry of Agriculture and Farmers Welfare,
Government of India,
 9. Secretary,
Department of Animal Husbandry, Dairying & Fisheries,
Ministry of Agriculture and Farmers Welfare
Government of India,
 10. Joint Secretary & Financial Adviser,
Ministry of Human Resource Development
Government of India,
New Delhi
 11. Adviser (Education),
Niti Aayog,
Government of India,
New Delhi

12. Chairman,
National Institute of Open Schooling (NIOS), Noida, (U.P.)
13. Director,
Directorate of Adult Education (DAE),
New Delhi

C. Non-Official Members

1. Vice-Chancellor, Indira Gandhi National Open University (IGNOU),
New Delhi.
2. Programme Adviser, National Service Scheme (NSS),
Ministry of Youth Affairs & Sports, New Delhi

D. Representatives of States Resource Centres (4)

1. Director, SRC, Kerala
2. Director, SRC, Dispur, Assam
3. Director, SRC, Tamilnadu.
4. Director, SRC, Indore, Madhya Pradesh

E. Representatives of Jan Shikshan Sansthan (3)

1. Director, JSS, Chitrakoot, U.P.
2. Director, JSS, Jorhat, Assam
3. Director, JSS, Goa.

F. Members/Secretaries of SLMAs. (5)

1. Member Secretary, SLMA, Andhra Pradesh.
2. Member Secretary, SLMA, Rajasthan.
3. Member Secretary, SLMA, Uttar Pradesh.
4. Member Secretary, SLMA, Bihar.
5. Member Secretary, SLMA, Haryana.

G. Member Secretary

Joint Secretary (AE) & Ex-officio Director General,
National Literacy Mission Authority,
Department of School Education & Literacy,
Ministry of Human Resource Development.

2. The term of the Executive Committee will be for a period of two years from the date of this Notification.
3. The Non-official Members of the Executive Committee shall be entitled to travel by air (Economy Class) to attend the Executive Committee Meeting.

[No. F. 46-3/2008-AE-4/NLM-4]

JUGLAL SINGH, Dy. Secy.

कोयला मंत्रालय

नई दिल्ली, 2 जून, 2017

का.आ. 1346.—केन्द्रीय सरकार को यह प्रतीत होता है कि इससे उपाबद्ध अनुसूची में उल्लिखित परिक्षेत्र की भूमि से कोयला अभिप्राप्त होने की संभावना है;

और, रेखांक संख्या एसईसीएल/बीएसपी/जीएम(पीएलजी)/भूमि/511, तारीख 12 अप्रैल, 2017 का जिसमें उक्त अनुसूची में वर्णित भूमि क्षेत्र के ब्यौरे अन्तर्विष्ट है, निरीक्षण कलक्टर, जिला सुरजपुर (छत्तीसगढ़) के कार्यालय में या कोयला नियंत्रक, 1, काउंसिल हाऊस स्ट्रीट, कोलकाता - 700001 के कार्यालय में या साऊथ ईस्टर्न कोलफील्ड्स लिमिटेड (राजस्व अनुभाग), सीपत रोड, बिलासपुर-495006 (छत्तीसगढ़) के कार्यालय में किया जा सकता है;

अतः, अब, केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, पूर्वोक्त अनुसूची में वर्णित भूमि में कोयले का पूर्वोक्षण करने के अपने आशय की सूचना देती है।

उपरोक्त अनुसूची में वर्णित भूमि में हितबद्ध कोई व्यक्ति, इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से नब्बे दिन की अवधि के भीतर भारसाधक अधिकारी या विभागाध्यक्ष (राजस्व), साऊथ ईस्टर्न कोलफील्ड्स लिमिटेड, सीपत रोड, बिलासपुर-495006 (छत्तीसगढ़) से -

- (i) संपूर्ण भूमि या उसके किसी भाग या ऐसी भूमि में या उसके ऊपर किसी अधिकार के अर्जन पर आक्षेप कर सकेगा; या
- (ii) उक्त अधिसूचना की धारा 4 की उप-धारा (3) के अधीन की गई किसी कार्रवाई से हुई या सम्भवतः होने वाली किसी क्षति के लिये अधिनियम की धारा 6 के अधीन प्रतिकर का दावा कर सकेगा; या
- (iii) उक्त अधिनियम की धारा 13 की उप-धारा (1) के अधीन पूर्वोक्षण अनुज्ञप्तियों के प्रभावहीन होने के संबंध में या उक्त अधिनियम की धारा 13 की उप-धारा (4) के अधीन खनन पट्टे प्रभावहीन होने के लिये प्रतिकर का दावा कर सकेगा और उसे उक्त अधिनियम की धारा 13 की उप-धारा (1) के खंड (i) से खंड (iv) में विनिर्दिष्ट मदों की बाबत उपगत व्यय को उपदर्शित करने के लिये पूर्वोक्त भूमि से संबंधित सभी मानचित्रों, चार्टों और अन्य दस्तावेजों को परिदत्त कर सकेगा।

अनुसूची

महामाया ओसीपी (सेन्धोपारा- II ब्लाक), भटगांव क्षेत्र,
जिला- सुरजपुर (छत्तीसगढ़)

[रेखांक संख्या एसईसीएल/बीएसपी/जीएम(पीएलजी)/भूमि/511, तारीख 12 अप्रैल, 2017]

(क) राजस्व भूमि:

क्रम सं.	ग्राम का नाम	ग्राम संख्या	तहसील	जिला	क्षेत्र, हेक्टर में	टिप्पणियां
1.	बरौधी	178	भैयाथान	सुरजपुर	54.810	भाग
2.	जरही	103	प्रतापपुर	सुरजपुर	67.460	भाग
3.	सेन्धोपारा	37	प्रतापपुर	सुरजपुर	33.660	भाग
4.	दुरती	39	राजपुर	सुरजपुर	79.800	भाग
कुल : 235.730 हेक्टर (लगभग) या 582.49 एकड़ (लगभग)						

(ख) आरक्षित वन भूमि:

क्रम सं.	कम्पार्टमेंट संख्या	रेंज	डिवीजन	क्षेत्र, हेक्टर में	टिप्पणियां
1.	पी 1680	प्रतापपुर	सुरजपुर	9.200	भाग
2.	पी 1681	प्रतापपुर	सुरजपुर	21.720	भाग
कुल : 30.920 हेक्टर (लगभग) या 76.40 एकड़ (लगभग)					

कुल योग(क+ख)=266.650 हेक्टर (लगभग)

या 658.89 एकड़ (लगभग)

सीमा वर्णन:**ब्लाक — I :**

- क1—ख1—ग1 रेखा बिन्दु 'क1' से आरंभ होती है और ग्राम बरौधी के मध्य भाग, बिन्दु 'ख1' से गुजरती हुई बिन्दु 'ग1' पर मिलती है।
- ग1—घ1 रेखा बिन्दु 'ग1' से आरंभ होती है और ग्राम बरौधी के दक्षिणी भाग से गुजरती हुई बिन्दु 'घ1' पर मिलती है।
- घ1—ङ1 रेखा बिन्दु 'घ1' से आरंभ होती है और ग्राम जरही के पूर्वी भाग से होती हुई बिन्दु 'ङ1' पर मिलती है।
- ङ1—च1 रेखा बिन्दु 'ङ1' से आरंभ होती है और ग्राम जरही और बरौधी के उत्तरी भाग से होती हुई बिन्दु 'च1' पर मिलती है।
- च1—छ1—ज1 रेखा बिन्दु 'च1' से आरंभ होती है और ग्राम बरौधी के मध्य भाग, बिन्दु 'छ1' से होती हुई बिन्दु 'ज1' पर मिलती है।
- ज1—क1 रेखा बिन्दु 'ज1' से आरंभ होती है और ग्राम बरौधी के मध्य भाग से होती हुई आरंभिक बिन्दु 'क1' पर मिलती है।

ब्लाक — II :

- क2—ख2 रेखा बिन्दु 'क2' से आरंभ होती है और ग्राम जरही के दक्षिणी भाग से गुजरती हुई बिन्दु 'ख2' पर मिलती है।
- ख2—ग2 रेखा बिन्दु 'ख2' से आरंभ होती है और ग्राम जरही के दक्षिणी भाग से गुजरती हुई बिन्दु 'ग2' पर मिलती है।
- ग2—घ2 रेखा बिन्दु 'ग2' से आरंभ होती है और आरक्षित वन कम्पार्टमेंट संख्या 1680, ग्राम दुरती के दक्षिणी भाग से गुजरती हुई बिन्दु 'घ2' पर मिलती है।
- घ2—ङ2—च2 रेखा बिन्दु 'घ2' से आरंभ होती है और ग्राम दुरती के दक्षिणी भाग, बिन्दु 'ङ2', आरक्षित वन कम्पार्टमेंट संख्या 1680 के उत्तरी भाग से होती हुई बिन्दु 'च2' पर मिलती है।
- च2—छ2 रेखा बिन्दु 'च2' से आरंभ होती है और ग्राम जरही के दक्षिणी भाग से होती हुई बिन्दु 'छ2' पर मिलती है।
- छ2—क2 रेखा बिन्दु 'छ2' से आरंभ होती है और ग्राम जरही के दक्षिणी भाग से होती हुई आरंभिक बिन्दु 'क2' पर मिलती है।

ब्लाक — III :

- क3—ख3 रेखा बिन्दु 'क3' से आरंभ होती है और ग्राम सेंधोपारा के उत्तरी, और ग्राम दुरती के मध्य भाग से गुजरती हुई बिन्दु 'ख3' पर मिलती है।
- ख3—ग3 रेखा बिन्दु 'ख3' से आरंभ होती है और ग्राम दुरती के मध्य भाग से गुजरती हुई बिन्दु 'ग3' पर मिलती है।
- ग3—घ3 रेखा बिन्दु 'ग3' से आरंभ होती है और ग्राम दुरती के मध्य भाग और ग्राम सेंधोपारा के उत्तरी भाग से गुजरती हुई बिन्दु 'घ3' पर मिलती है।
- घ3—ङ3—च3 रेखा बिन्दु 'घ3' से आरंभ होती है और ग्राम सेंधोपारा के उत्तरी भाग, बिन्दु 'ङ3' से होती हुई बिन्दु 'च3' पर मिलती है।
- च3—छ3—ज3 रेखा बिन्दु 'च3' से आरंभ होती है और ग्राम सेंधोपारा के उत्तरी भाग, बिन्दु 'छ3' से होती हुई बिन्दु 'ज3' पर मिलती है।
- ज3—क3 रेखा बिन्दु 'ज3' से आरंभ होती है और ग्राम सेंधोपारा—कपसरा के भागतः सम्मिलित सीमा से होती हुई आरंभिक बिन्दु 'क3' पर मिलती है।

[फा. सं. 43015/21/2017—एलए एण्ड आईआर]

राम शिरोमणि सरोज, अवर सचिव

MINISTRY OF COAL

New Delhi, the 2nd June, 2017

S.O. 1346.—Whereas, it appears to the Central Government that coal is likely to be obtained from the land in the locality mentioned in the Schedule annexed hereto;

And whereas, the plan bearing number SECL/ BSP/ GM(PLG)/LAND/ 511, dated the 12th April, 2017 containing details of the areas of land described in the said Schedule may be inspected at the office of the Collector, District Surajpur (Chhattisgarh) or at the office of the Coal Controller, 1, Council House Street, Kolkata-700001 or at the office of the South Eastern Coalfields Limited (Revenue Section), Seepat Road, Bilaspur -495006 (Chhattisgarh);

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), (hereinafter referred to as the said Act), the Central Government hereby gives notice of its intention to prospect for coal in the land described in the aforesaid Schedule.

Any person interested in the land described in the aforesaid Schedule may --

- (i) object to the acquisition of the whole or any part of the land or of any rights in or over such land; or
- (ii) claim compensation under section 6 of the said Act for any damage caused or likely to be caused by any action taken under sub-section (3) of section 4 of the said Act; or
- (iii) claim compensation under sub-section (1) of section 13 of the said Act, in respect of prospecting license ceasing to have effect or under sub-section (4) of section 13 of the said Act for mining lease ceasing to have effect and deliver all maps, charts and other documents relating to the aforesaid land to show the expenditure incurred in respect of items specified in clauses (i) to (iv) of sub-section (1) of section 13 of the said Act,

to the Officer-in-Charge or Head of the Department (Revenue), South Eastern Coalfields Limited, Seepat Road, Bilaspur-495006 (Chhattisgarh) within a period of ninety days from the date of publication of this notification.

SCHEDULE

Mahamaya OCP (Sendhopara-II Block), Bhatgaon Area,

District- Surajpur (Chhattisgarh)

[Plan bearing number SECL/BSP/GM (PLG)/LAND/ 511, dated the 12th April, 2017]

(A) Revenue Land:

Sl. No	Name of village	Village number	Tahsil	District	Area in hectares	Remarks
1.	Barudhi	178	Bhaiyathan	Surajpur	54.810	Part
2.	Jarhi	103	Pratappur	Surajpur	67.460	Part
3.	Sendho-para	37	Pratappur	Surajpur	33.660	Part
4.	Durti	39	Pratappur	Surajpur	79.800	Part
Total: 235.730 hectares (approximately)						or 582.49 acres (approximately)

(B) Reserve Forest Land:

Sl. No.	Compartment number	Range	Division	Area in hectares	Remarks
1.	P 1680	Pratappur	Surajpur	9.200	Part
2.	P 1681	Pratappur	Surajpur	21.720	Part
Total: 30.920 hectares (approximately)					or 76.40 acres (approximately)

Grand Total (A+B): 266.650 hectares (approximately)
or 658.89 acres (approximately)

Boundary description:**Block – I :**

- A1-B1-C1 Line starts from point 'A1' and passes in village Barudhi through middle part of village Barudhi, point 'B1' and meets at point 'C1'.
- C1-D1 Line starts from point 'C1' and passes in village Barudhi through southern part of village Barudhi and meets at point 'D1'.
- D1-E1 Line starts from point 'D1' and passes in village Jarhi through eastern part of village Jarhi and meets at point 'E1'.
- E1-F1 Line starts from point 'E1' and passes in village Jarhi and Barudhi through northern part of village Jarhi and Barudhi and meets at point 'F1'.
- F1-G1-H1 Line starts from point 'F1' and passes in village Barudhi through middle part of village Barudhi, point 'G1' and meets at point 'H1'.
- H1-A1 Line starts from point 'H1' and passes in village Barudhi through middle part of village Barudhi and meets at starting point 'A1'.

Block – II:

- A2-B2 Line starts from point 'A2' and passes in village Jarhi through southern part of village Jarhi, and meets at point 'B2'.
- B2-C2 Line starts from point 'B2' and passes in village Jarhi through southern part of village Jarhi, Reserve Forest compartment number 1680 and Durti and meets at point 'C2'.
- C2-D2 Line starts from point 'C2' and passes in Reserve Forest and village Durti through southern part of Reserve Forest compartment number 1680, village Durti and meets at point 'D2'.
- D2-E2-F2 Line starts from point 'D2' and passes in village Durti through southern part of village Durti, point 'E2' northern part of Reserve Forest compartment number 1680, southern part of village Jarhi and meets at point 'F2'.
- F2-G2 Line starts from point 'F2' and passes in village Jarhi through southern part of village Jarhi, and meets at point 'G2'.
- G2-A2 Line starts from point 'G2' and passes in village Jarhi through southern part of village Jarhi, and meets at starting point 'A2'.

Block – III:

- A3-B3 Line starts from point 'A3' and passes in village Sendhopara and Durti through northern part of village Sendhopara, middle part of village Durti and meets at point 'B3'.
- B3-C3 Line starts from point 'B3' and passes in village Durti through middle part of village Durti and meets at point 'C3'.
- C3-D3 Line starts from point 'C3' and passes in village Durti and Sendhopara through middle part of village Durti, northern part of village Sendhopara and meets at point 'D3'.
- D3-E3-F3 Line starts from point 'D3' and passes in village Sendhopara through northern part of village Sendhopara, point 'E3' and meets at point 'F3'.
- F3-G3-H3 Line starts from point 'F3' and passes in village Sendhopara through northern part of village Sendhopara, point 'G3' and meets at point 'H3'.
- H3-A3 Line starts from point 'H3' and passes in village Sendhopara along partly common boundary of villages Sendhopara-Kapsara and meets at starting point 'A3'.

[F. No. 43015/ 21 /2017-LA&IR]

RAM SHIROMANI SAROJ, Under Secy.

संचार मंत्रालय

(डाक विभाग)

(पोस्टमास्टर जनरल का कार्यालय, गोवा क्षेत्र, पणजी)

पणजी, 23 मई, 2017

का.आ. 1347.—केंद्रीय सरकार के अधिनियम, 1972 (1972 में 18) विभागीय जांच (साक्षियों की उपस्थिति का प्रवर्तन और दस्तावेजों का प्रस्तुतिकरण) का धारा (4) की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए श्री जी. पी. तलगांवकर का एतद्द्वारा जांच अधिकारी विनिर्मित करती है और सहायक डाक अधीक्षक (यात्रा) रत्नागिरी डिविजन को कथित अधिनियम की उप-धारा 4 द्वारा केंद्रीय सरकार को प्रदत्त शक्तियों का प्रयोग (सरकारी सेवक का वर्ग) जिसके विरुद्ध जांच की जा सकती है, का प्राधिकारी नियुक्त करती है।

[फा. सं. जीआर/स्टाफ II/आईओ की नियुक्ति/पिओ/2016-17]

विनोद कुमार वर्मा, पोस्टमास्टर जनरल

MINISTRY OF COMMUNICATIONS

(Department of Posts)

(O/O POSTMASTER GENERAL, GOA REGION, PANAJI)

Panaji, the 23rd May, 2017

S.O. 1347.—In exercise of the powers conferred by sub-section (2) of section 4 of the Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Act, 1972 (18 of 1972), the Central Government hereby specifies Shri G.P. Talgaonkar, Inquiry Officer and ASPOs (Tour) Ratnagiri as a authority to exercise the power conferred on the Central Government by sub-section 4 of the said Act in respect of (Category of Government servants) against whom a departmental inquiry may be held.

[F. No. GR/Staff-II/Apptt. of IO/PO/2016-17]

VINOD KUMAR VERMA, Postmaster General

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(खाद्य और सार्वजनिक वितरण विभाग)

नई दिल्ली, 29 मई, 2017

का.आ. 1348.—केंद्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में, उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय (खाद्य और सार्वजनिक वितरण विभाग) के प्रशासनिक नियंत्रणाधीन निम्नलिखित कार्यालयों, जिनके 80% से अधिक कर्मचारीवृंद ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को राजपत्र में अधिसूचित करती है :—

1. केंद्रीय भंडारण निगम,
क्षेत्रीय कार्यालय,
बेंगलूरु-560016
2. केंद्रीय भंडारण निगम,
केंद्रीय भंडारगृह
वड़ोदरा-390002
3. केंद्रीय भंडारण निगम,
केंद्रीय भंडारगृह
वड़ोद-388370

4. केंद्रीय भंडारण निगम,
केंद्रीय भंडारगृह
आई.सी.डी. दशरथ,
वड़ौदा-391357
5. केंद्रीय भंडारण निगम,
केंद्रीय भंडारगृह
भावनगर-364005

[सं. ई-11011/1/2008-हिन्दी]

टी. के. मनोज कुमार, संयुक्त सचिव

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION**(Department of Food and Public Distribution)**

New Delhi, the 29th May, 2017

S.O. 1348.—In pursuance of Sub-rule (4) of Rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the following office under the administrative control of the Ministry of Consumer Affairs, Food and Public Distribution (Department of Food and Public Distribution) whereof more than 80% of staff have acquired the working knowledge of Hindi :—

1. Central Warehousing Corporation,
Regional Office,
Bangalore-560016
2. Central Warehousing Corporation,
Central Warehouse,
Vadodara-I,-390002
3. Central Warehousing Corporation,
Central Warehouse,
Vadod-388370
4. Central Warehousing Corporation,
Central Warehouse,
ICD, Dashrath, Baroda-391357
5. Central Warehousing Corporation,
Central Warehouse,
Bhavnagar-364005

[No. E-11011/1/2008-Hindi]

T. K. MANOJ KUMAR, Jt. Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 26 मई, 2017

का.आ. 1349.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पी.एन.बी. मैटलार्ड्स इंडिया इंशोरेंस कम्पनी लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अरनाकुलम, कोचीन के पंचाट (संदर्भ सं. 34/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 26.05.2017 को प्राप्त हुआ था।

[सं. एल-39025/01/2010-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 26th May, 2017

S.O. 1349.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 34/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam, Cochin as shown in the Annexure in the Industrial Dispute between the management of PNB Metlife India Insurance Company Limited and their workmen, received by the Central Government on 26.05.2017.

[No. L-39025/01/2010-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ERNAKULAM****Present :** Shri K. Sasidharan, B.Sc., LLB, Presiding Officer(Friday the 31st day of March, 2017/10th Chaitra, 1939)**ID 34/2014**

Workman/Applicant	:	Shri Deepak. M. J., S/o Shri. M. A. Jose, Mandumpal House, Puthur P.O., Thrissur – 680 014. By Adv. Shri Ashok. B. Shenoy
Management	:	The Chief Executive Officer, PNB MetLife India Insurance Company Ltd., Registered Office, Brigade Sheshamahall, No.5 Vani Vilas Road, Basavangudi, Bengaluru – 560 004. By Adv. Shri. Nelson. J. Manayil

This case coming up for final hearing on 02.03.2017 and this Tribunal-cum-Labour Court on 31.03.2017 passed the following:

AWARD

This is an application filed by the workman under Section 2A(2) of the Industrial Disputes Act, 1947.

2. The contentions in the application filed by the workman in brief are as follows:

The applicant/workman joined the services of the management on 01.11.2017 at their Thrissur branch. Formerly the management was known as “MetLife India Insurance Company Limited”. Even though the workman was designated at the time of appointment as ‘Sales Manager’ and ‘Senior Sales Manager – Agency Sales’, throughout his tenure of employment he was assigned, vested with and required to do only clerical, manual, technical and operational duties. The duties assigned were discharged by him diligently, honestly and without any complaint from any source.

3. On 12.10.2012 the management unilaterally terminated the services of the workman by serving the termination letter dated 09.10.2012. It is stated that the termination was effected for the reason that the workman failed to improve his performance in spite of issuing the notices dated 16.07.2012 and 03.10.2012. The said statement by the management is false, incorrect and not in tune to facts.

4. On 12.12.2012 the workman submitted an application before the Assistant Labour Commissioner(Central), Ernakulam with a request to conciliate and resolve the matter in issue. The conciliation officer could not succeed in his attempt and hence a failure report was issued on 25.04.2014. The action of the management in terminating the services of the workman is illegal and unjust. The allegation by the management that there was no improvement in the performance of the workman and there was no earnest effort on his part for improving the performance is absolutely false. The impugned action on the part of the management is stigmatic, punitive and hence illegal. The management has failed to follow the principles of natural justice and denied the opportunity to the workman to substantiate his

contentions. Before serving the termination notice the management has not issued any show cause notice or memo of charges against the workman. The action of the management is unjust and illegal.

5. The impugned termination amounts to retrenchment and hence illegal. It is clear violation of Sections 25F, 25G and 25H of the Industrial Disputes Act, 1947. The impugned termination is vindictive and without any bonafides. About one week prior to the date of termination of his services, the management directed the workman to resign from the union. They threatened the workman with dire consequences if he fails to do so. The action of the management is illegal and in clear violation of the rights of the workman to continue his employment. From the date of termination the workman is unemployed and not having any income.

6. Therefore the workman has requested to pass an award declaring that the action of the management in terminating his services with effect from 12.10.2012 as illegal, unjust and hence to set aside the same; to declare that the workman is entitled to be reinstated in the service of the management with full back wages, continuity of service and all other attendant benefits and to direct the management to reinstate him in service with full back wages, continuity of service and all other attendant benefits thereof.

7. The contentions in the written statement filed by the management in brief are as follows:

The management has denied all the averments in the application except those that are specifically admitted. The management is a company incorporated in accordance with the provisions of the Companies Act, 1956. The management is primarily into the business of Life Insurance with the approval from the Government of India through the insurance regulator IRDA. It has got branches at several places in India and acclaimed widely for its services and reputation.

8. The averments in the application are false, incorrect and it is filed with malafide intention. The application is liable to be dismissed in limine for the reason that this Tribunal has no jurisdiction to adjudicate the matter in issue. The applicant is not a “workman” within the purview of Section 2(s) of the Industrial Disputes Act, 1947. The applicant was performing purely supervisory and managerial nature of work and he was not doing any clerical or manual work. He was drawing an annual salary of ₹3,50,000/- (Rupees Three lakhs fifty thousand only). Hence he will not come within the purview of a “workman” as defined under the Industrial Disputes Act, 1947. The matter in issue will not be an “industrial dispute” as defined under Section 2(k) of the Industrial Disputes Act, 1947.

9. The applicant was employed as a ‘Sales Manager’ entrusted with the task of generating business and promoting sales for the management company. The applicant was selected for the post of Sales Manager-Agency Sale in E-1 Grade and the management issued an offer letter to him and it was duly accepted by him. After accepting and acknowledging the offer of employment the applicant signed the business conduct certificate, employee code of business and ethics acknowledgement form and malpractice matrix agreement. At the time of joining, Confidentiality Agreement was signed by him. After submitting the required documents the management engaged the applicant as per appointment letter dated 08.10.2007 as a Sales Manager-Agency Sale in E-1 Grade at the Thrissur branch office with an annual salary of ₹2,65,000/- (Rupees Two lakhs sixty five thousand only). The terms and conditions of appointment are specified in detail in the letter of appointment dated 08.10.2007. The said terms and conditions form part of the binding contract between the applicant and the management.

10. Clause 11 of the appointment letter which reads as follows:

“11 Termination:

Upon confirmation of your employment under clause 2 above, the Company reserves the right to terminate your services by providing you with 30 (thirty) days notice or salary in lieu thereof. Notwithstanding the foregoing or the provision of clause 2 company reserves the right to terminate your services without any notice or salary in lieu thereof for reason including but not limited to misconduct, negligence of duty, disloyalty, dishonesty, insubordination, misrepresentation, indiscipline, disobedience, breach of the Non-Disclosure Agreement, irregular attendance, inefficiency, poor performance, redundancy of job or any act detrimental to the interests of the Company”.

11. During the designation as “Sales Manager”, the work profile of the applicant constituted largely of promotion of sales or business, or both for the management company and to assist the company in its growth. Initially the performance of the applicant was good and it continued till December, 2008. With effect from 28.01.2009, he was promoted as Senior Sales Manager-Agency Sales in Grade E-2. Subsequently the performance of the applicant was not up to the expectation of the management. Therefore the branch head pursued him to improve his performance. Even after granting several opportunities, he failed to improve his performance. Hence a warning letter dated 27.04.2012 was issued to him, in which it is stated that his performance from January, 2012 to March, 2012 was far below the acceptable standard of the management. It was made clear that such type of non-performance is not acceptable. Even after that there was no improvement in the performance of the applicant. Since the applicant failed to improve his

performance even after repeated requests, he was terminated from the services with effect from 12.10.2012 for poor performance as per termination letter dated 09.10.2012.

12. The management has stated that the applicant is not a “workman” as defined under Section 2(s) of the Industrial Disputes Act, 1947. Even on merits also he has no right to maintain an application of this nature. The management has requested to dismiss the claim of the applicant with costs.

13. The workman filed rejoinder denying the contentions of the management and reiterating the contentions in the application filed under Section 2A(2) of the Industrial Disputes Act, 1947.

14. The applicant tendered evidence as WW1 and Exts.W1 to W13 are the documents marked on his side. On behalf of the management no oral evidence has been adduced. Exts.M1 and M2 are the documents marked on behalf of the management. Heard both sides.

15. The points arising for consideration are:

- “(i) Whether the applicant is a “workman” as defined under the Industrial Disputes Act, 1947?**
- (ii) Whether the Tribunal is having the right to entertain and adjudicate the dispute raised by the applicant?**
- (iii) Whether the termination of the services of the applicant by the management is just, legal and proper?**
- (iv) Whether the applicant is entitled to get the relief as claimed in the application?”**

16. Point Nos.(i) & (ii):- This is an application filed under Section 2A(2) of the Industrial Disputes Act, 1947 by one Shri. Deepak. M. J. The applicant has stated that he is a ‘workman’ as defined under the Industrial Disputes Act, 1947. He joined the services of the management company on 01.11.2007 at its Thrissur office. At the time of appointment, he was designated as Sales Manager and Senior Sales Manager – Agency Sales. The applicant has stated that even though at the time of appointment he was designated as aforesaid, throughout his tenure of employment, he was assigned, vested with and required to do only clerical, manual, technical and operational duties. He has stated that he was discharging the duties assigned to him diligently, honestly and without any complaint from any source.

17. He has stated that on 12.10.2012 the management unilaterally terminated his services by serving the termination letter dated 09.10.2012. According to the applicant the reason for termination stated by the management is absolutely false. He has stated that the termination of employment by the management is unjust, illegal and against the statutory and legal provisions. He has stated that he is a ‘workman’ as defined under Section 2(s) of the Industrial Disputes Act, 1947 and the matter in issue is an “Industrial Dispute” as defined under the Act and hence this Tribunal has got the right to entertain and adjudicate the matter in issue.

18. The management has contended that the applicant is not a ‘workman’ as defined under the Industrial Disputes Act, 1947 and the matter in issue is not an “Industrial Dispute” enabling this Tribunal for adjudication. They have stated that the applicant was appointed as a Sales Manager – Agency Sale in E-1 Grade as per the terms and conditions in the appointment letter dated 08.10.2007 at the Thrissur branch office with an annual salary of ₹2,65,000/- (Rupees Two lakhs sixty five thousand only). It is stated that the applicant was entrusted with the task of generating business and promoting sales for the management company. According to the management the applicant will not come under the purview of a ‘workman’ as defined under the Industrial Disputes Act, 1947.

19. While examined as WW1, the applicant has stated that he joined the management company as Sales Manager – Agency Sale E-1 grade with an annual salary of ₹2,65,000/-. He has stated that subsequently he was promoted as Senior Manager – Agency Sale E-2 grade. He has stated that Sales Manager is the person working in the field along with insurance agents who are having license as per IRDA. WW1 has admitted that Ext.M1 is the joining report signed by him at the time when he joined the management company.

20. The learned counsel for the applicant submitted that even though the applicant was appointed as Sales Manager – Agency Sales in E-1 grade he was assigned, vested with and required to do only clerical, manual, technical and operational duties and he was performing the duties assigned to him to the best of his ability. It is also submitted that nomenclature of the post as ‘Sales Manager – Agency Sales’ is not a criteria to arrive at conclusion that the workman/applicant was doing managerial functions. It is submitted that the applicant/workman is a “workman” as defined under Section 2(s) of the Industrial Disputes Act, 1947.

21. The learned counsel for the management submitted that the applicant will not come under the purview of “workman” as defined under the Industrial Disputes Act. It is submitted that the applicant was performing the work which is purely of supervisory and managerial nature and was not doing any manual or clerical work. The learned

counsel referred to the Rulings reported in *H. R. Adyanthaya Vs. Sandoz (India) Ltd.*, (1994) 5 SCC 737 and also the Ruling reported in *Chauharya Tripathi & Ors. Vs. LIC of India & Ors.* – AIR 2015 SC 2275 and submitted that the applicant will not come under the purview of a “workman” as defined under the Industrial Disputes Act, 1947.

22. In decision second referred above the Hon’ble Supreme Court has held that:

“Industrial Disputes Act (14 of 1947) S.2(s) and S.10(1) – Life Insurance Corporation of India Act

(31 of 1956) S.23 – “Workman” - Development Officers working in the LIC are not workmen – hence Labour Court has no jurisdiction to adjudicate industrial dispute raised by Development Officers”.

23. Ext.W1 is the offer of appointment issued by the management to the applicant. In Ext.W1 document it is stated that the offer of appointment is contingent on the acceptance of the terms and conditions in the appointment letter, which will be mailed to him separately. WW1 has admitted that Ext.M1 is copy of the joining report signed by him at the time of joining the management company. Even though WW1 has denied the specific question relating to the nature of duties assigned to him while employed as Sales Manager and Senior Sales Manager – Agency Sales, it is evident that the nature of duties performed by him while working in the management company is akin to that of the Development Officers working in the Life Insurance Corporation of India. In view of the dictum laid down in the decision referred above it is evident that the applicant will not come under the purview of “workman” as defined under Section 2(s) of the Industrial Disputes Act, 1947. Moreover his annual salary at the time when joined the services of the management company was ₹2,65,000/-. Subsequently he was promoted and there was increase in his annual salary. Therefore on that ground also he will not come under the purview of “workman” as defined under the Industrial Disputes Act, 1947.

24. Since the applicant/workman is not a “workman” as defined under the Industrial Disputes Act, 1947, this Tribunal has no jurisdiction to entertain and adjudicate the dispute initiated by him under Section 2A(2) of the Industrial Disputes Act, 1947. Hence the points for consideration are answered against the applicant.

25. Point No.(iii):- While answering Point Nos.(i) & (ii) it is held that this Tribunal has no jurisdiction to adjudicate the dispute initiated at the instance of the applicant/workman. In such circumstance it will not be just, legal or proper for this Tribunal to render a finding regarding the legality or correctness of the decision by the management in this regard. Hence Point No.(iii) is observed as above.

26. Point No.(iv):- While answering Point Nos.(i) & (ii) it is held that the applicant/workman will not come under the purview of “workman” as defined under Section 2(s) of the Industrial Disputes Act and hence this Tribunal has no jurisdiction to entertain and adjudicate the matter in issue. In such circumstance the applicant is not entitled to the relief claimed. The point is answered accordingly.

27. In the result an award is passed holding that the applicant/workman is not a “workman” as defined under the Industrial Disputes Act, 1947 and hence not entitled to the relief claimed as per this application under Section 2A(2) of the ID Act.

The Award will come into force one month after its publication in the Official Gazette.

Pronounced by me in the Open Court on this the 31st day of March, 2017.

K. SASIDHARAN, Presiding Officer

APPENDIX

Witness for the workman/applicant

WW1 04.02.2015 Shri. Deepak. M. J.

Witness for the management

NIL

Exhibits for the workman/applicant

W1	-	Offer of employment letter No.Nil dated 04.10.2007 issued by the Regional Executive Recruitments, MetLife India Insurance Co., Pvt. Ltd., Kochi (Kerala) to the applicant.
W2	-	Copy of the Identity Card dated 01.04.2008 issued by the District Executive Officer, Kerala Shops & Commercial Establishments Workers’ Welfare Fund Board, Thrissur to the applicant.
W3	-	Termination letter No.Nil dated 09.10.2012 issued by the Associate Director – Human Resources, MetLife India Insurance Co. Ltd., Haryana to the applicant.
W4	-	Certificate bearing No.07/10/2013/D2 dated 25.04.2014 issued by the Conciliation Officer & Assistant Labour Commissioner (Central), Government of India, Office of the Regional Labour

		Commissioner(Central), Ministry of Labour & Employment, Kendriya Shram Sadan, Kakkanad, Cochin to the applicant.
W5	-	Certificate of Achievement awarded during Lavasa, 08/2011 by the management to the applicant.
W6	-	Certificate of Appreciation awarded during JFM 2010 for Premium in March to the applicant.
W7	-	Certificate of Appreciation awarded during JFM 2010 for Magical Malaysia to the applicant.
W8	-	Certificate of Appreciation awarded during JFM 2010 for NOP in March, 2010 to the Applicant.
W9	-	Certificate of Medallion Appreciation awarded for Medallion Qualifier on 09.07.2010 to the applicant.
W10	-	Certificate of Excellence awarded for successfully qualifying the MDRT Lakshya Conference held at Kuala Lumpur, Malaysia from 05 th -07 th August, 2010 by the management to the applicant.
W11	-	RENDEZVOUS WITH SAMEER BANSAL awarded in recognition of exemplary performance in FA Activisation during September, 2010 to the applicant.
W12	-	Certificate of Achievement presented for outstanding achievement in the Knowledge is Power by the management to the applicant.
W13	-	Certificate of Honour for 'Activity Wizard' for the months of Jan-Mar, 2010 awarded by the management to the applicant.

Exhibits for the management

M1	-	True copy of the 1 st page of the appointment letter dated 08.10.2007 issued to the applicant/workman by the management along with the true copy of the Joining Report dt.01.11.2007 along with other forms submitted by the applicant.
M2	-	True copy of the letter No.Nil dated 27.04.2012 issued by the Manager – Human Resources, MetLife India Insurance Co. Pvt. Ltd., Bangalore to the applicant.

नई दिल्ली, 26 मई, 2017

का.आ. 1350.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सैन्ट्रल बैंक ऑफ इंडिया के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर (उ.प्र.) के पंचाट (संदर्भ सं. 36/2006) को प्रकाशित करती है जो केन्द्रीय सरकार को 26.05.2017 को प्राप्त हुआ था।

[सं. एल-12011/190/2005-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 26th May, 2017

S.O. 1350.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 36/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur (U.P.) as shown in the Annexure in the Industrial Dispute between the management of Central Bank of India and their workmen, received by the Central Government on 26.05.2017.

[No. L-12011/190/2005-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE SRI SHUBHENDRA KUMAR, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOR COURT, KANPUR

Industrial Dispute No. 36 of 2006

Between :

The Vice President
U.P. Bank Workers Organization
2, Naveen Market, Kanpur.
Kanpur(U.P.)

And

The Regional Manager,
Central Bank Of India,
Sanjay Place,
Regional Office,
Agra-282001.

AWARD

1. Central Government, vide Notification No. L-12011/190/2005–IR(B-II) dated 16.05.2006, has referred the following dispute for adjudication to this tribunal.
2. Whether the action of the management of Central Bank of India, Aligarh in not regularizing Shri Rajesh Kumar on the post of Daftri Sub-Staff and appointing him as part-time Sweeper and not Paying him wages equivalent to permanent employee w. e. f. 01.10.2000 is justified? If not, to What relief the concerned workman is entitled?
3. The case of the worker in short is that he was appointed by the bank as part time sweeper in the Year 1995 and according to Bipartite Settlement he was being paid his monthly wages at the rate of Rs. 740/- per month with effect from 2000. Prior to him one Sri Gendalal Daftri was working at the extension counter of the bank and one Sri Mahendra Singh was also working as guard at that extension counter of the bank. In the year 2000 Sri Gendalal was promoted at the post of Daftri and he was transferred and Sri Mahendra Singh retired from the service of the bank. It is also alleged that on the oral direction of the senior Branch Manager, the bank used to take the work of daftri including the work of peon. The working hour of the worker is from 09.15 a.m. to 5.00 p.m. It is also alleged that according to the provision of Bipartite Settlement in case any part time employees works 29 hours a week he is entitled to receive full wages and since the worker had worked for more than 29 hour in a week therefore, he is entitled to received full wages. On the above basis it is prayed by the worker that he be declared permanent and also be paid full wages with effect from 01.10.2000.
4. The opposite party opposed the claim of the worker and filed their reply in which it is stated That the worker has no lien or right on any regular ad permanent post in the bank as he was Simply engaged as part time basis for the work of safai karamchari as such he could not claim Wages and work as a matter of right like regular and permanent employee as he never worked continuously against any regular and permanent post. The claim filed by the union is highly belated as such is not maintainable. Worker has no right to claim permanency or regularization in the service of the bank.
5. On merit it has been pleaded by the bank that the worker was engaged as a part time safai Karamchari in extension counter Central Bank of India, Gandhi Ashram Aligarh on consolidate R.1050/- per month. It is denied by the bank that the worker at any point of time was paid wages at Rs.740/- per month with effect from 2000.It is not an industrial dispute as the cause of the concerned worker has not been sponsored by the competent union or by majority ad substantial number of employees of the opposite party.It is admitted by the opposite party that the worker was simply engaged as a part time safai karamchari on consolidated wage basis and he was issued an appointment letter dated 28.07.03 wherein it is clearly mentioned in para one of the appointment letter that he would not work less than 3 hours but not more than 6 hours per week for cleaning work only to be decided by te management of the bank. It is denied by the bank that it ever took the work of daftri from the worker and the bank had never issued any oral or written order for performing the work of daftri. Worker had ever worked as a subordinate staff as such he is not entitled to be paid any regular pay scale or ay payment of arrears of salary.
6. On the basis of above it is prayed that the claim of the worker is highly belated and as he had Never performed the work of daftri / peon, therefore, his entire claim is liable to be rejected being devoid of merit.
7. The representative for the worker vide his affidavit dated 28.09.2013 paper no. 30/1-2 has filed 6 papers.
8. Whereas worker has examined himself as w. w.1 and two more witnesses by name Rajendra Prasad and R. P. Singh were also examined as w. w. 2 & w.w.3 on behalf of the worker. Management has examined its officer Sri Yogendra Pratap Singh as M. W.1.
9. Both sides have filed document in support of their respective cases which shall be discussed at the appropriate stage.
10. I have heard the arguments of the parties at length and have also gone through the records carefully.
11. It is contended by the authorized representative for the worker that although Rajesh Kumar was appointed as part time sweeper on monthly wages of Rs. 740/ per month in 1995 but the officer of the branch in addition to his normal work of sweeping the branch also utilized him as daftri and peon from 01.10.2000, but did not pay him regular wages either of the post of peon/daftri which is against rules and mounts to unfair labor practice.

12. On the other hand it was contended by the representative for the management that the worker neither had discharged the duties of daftri or peon on full time basis nor he was ever appointed on the said post according to recruitment rule nor any officer of the bank had ever directed the worker to perform the duties of peon / daftri as such worker is neither entitled for his regularization of service as daftri nor is entitled for payment of wages at par to regular employees of the bank of the category to which the worker belongs.
13. It was also contended that the branch manager had no authority to appoint any person on the Post of daftri or peon and this power rests with Regional Manager of the Bank.
14. It is also contended that no information was ever sent to Regional Office that Rajesh Kumar is working as peon/ daftri at the extension counter of the branch nor any approval is taken by the then branch manager in this regard.
15. On behalf of the worker a copy of letter sent to Senior Manager, Central Bank of India, Agra has been filed which reveals that Sri R P Singh the authorized representative for the worker who was In-charge of Extension Counter, Gandhii Ashram Banna Devi, of the bank at Aligarh had sent this letter wherein it is mentioned that there is no orderly or Armed Guard in the Extension Counter, therefore, worker is utilized for this, but in this letter is not mentioned that services of Rajesh Kumar is utilized as Daftri although w.w. 2 Sri R P Singh who was in-charge of extension Counter at the relevant time has admitted this letter, could not prove any letter of appointment or any authority in writing given to Rajesh Kumar to work as datary also. He himself admitted in His cross examination that he directed Rajesh Kumar to work as daftri by an office letter on the Direction of the branch manager but no such letter is filed by the worker and secondly on the Oral direction of the branch manager Sri R P Singh the then in-charge of Extension Counter had no authority either to appoint Rajesh Kumar as daftri or to utilize his serves as daftri. If it is done by Sri R P Singh without any authority it will be presumed that he has taken the service of the post of daftari from Rajesh Kumar in his personal capacity even without approval of appointing authority or the branch manager.
16. W.W.1 Rajesh Kumar had admitted in his cross examination that he was not given any appointment letter on 1.1.95 and that he has also admitted that his services were not terminated by the bank terminated by the bank and he was transferred to Patiyali branch on the post of sweeper where he had joined. He also says that he does not know whether the post of daftri is a regular post and on this post he was never appointed.
17. In this regard w.w.3, Rajendra Prasad has also admitted the affidavit given by the worker paper no. 32/38 and also said that he does not know whether there is any paper regarding working of The worker as daftri is available of the file of worker Rajesh Kumar or not.
18. Paper no. 32/38 filed by the management is the copy of affidavit of worker Rajesh Kumar dated 07.05.03 given to the branch manager wherein he has stated that if his services on the post of sweeper on consolidate wages of Rs. 740/- per month are regularized he admits that he will not claim any benefit in any court / ALC and after his regularization he will not claim any promotion or seniority.
19. Thus it is admitted by the worker by filing this affidavit before the branch manager not to raise any dispute in any court / ALC, if his services are regularized as part time sweeper.
20. As he himself has admitted that he has been transferred at patiyal branch as part time sweeper where he joined the post, his conduct above shows that he has never been appointed as daftri or peon by the bank.
21. Having concluded that worker Rajesh Kumar had never been appointed on the post of daftri nor had ever worked at the said post, there cannot be any justification for his regularization on the said post and as he was working as part time safai karmcharin on consolidate wages, therefore, appointing him as part time sweeper is held to be justified.
22. Therefore, reference is answered accordingly against the worker and in favor of the management.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 26 मई, 2017

का.आ. 1351.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन ओवरसीज बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चैन्नई के पंचाट (संदर्भ सं. 20/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.05.2017 को प्राप्त हुआ था।

[सं. एल-39025/01/2010-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 26th May, 2017

S.O. 1351.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 20/2016) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the Industrial Dispute between the management of Indian Overseas Bank and their workmen, received by the Central Government on 26.05.2017.

[No. L-39025/01/2010-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Thursday, the 11th May, 2017

Present : K.P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 20/2016

BETWEEN :

Sri K. Baburaj : 1st Party/Petitioner

AND

The Managing Director : 2nd Party/Respondent
Indian Overseas Bank
Central Office
Anna Salai
Chennai-600002

Appearance :

For the 1st Party/Petitioner : Sri T. Ramkumar, Advocate

For the 2nd Party/Management : M/s N.G.R. Prasad, Advocate

AWARD

This is an Industrial Dispute taken on file under 2(A)(2) of the Industrial Disputes Act, 1947 (as amended by Act-24 of 2010 w.e.f. 15.09.2010).

1. The averments in the Claim Statement filed by the petitioner in brief are these:

The petitioner is an employee of the Respondent Management. He joined the service of the Respondent as Driver-cum-Messenger in January 2004. He was not issued with any Appointment Order. He was assigned duties as a Driver to drive vehicles of the higher officials of the Respondent. He was required to discharge the work of a Messenger also. He had been discharging his duties sincerely and diligently. The service of the petitioner was a continuous one. In spite of continuous and perennial nature of work performed by the petitioner the Management did not confirm him in service. In the year 2011, when the Respondent was under the process of absorbing temporary workers who had worked for a long time as Sweepers, Drivers, Messengers etc. the petitioner approached the Respondent requesting him to confirm him in service. He was asked to attend an interview on 18.08.2011 and he was selected for appointment as Driver-cum-Messenger by order dated 23.09.2011. He was posted at Suramangalam at Salem District and was later transferred to Udayapatti Branch. The petitioner had satisfactorily completed his probation and was confirmed in the service of the Respondent on 10.04.2012. The petitioner was again transferred to Central Office, Chennai where he worked as Driver-cum-Messenger. On 21.12.2013 the Respondent Management issued an order of termination on the petitioner without any prior notice, terminating his service with immediate effect. The Management had alleged that the petitioner had submitted bogus documents in support of his educational qualification to obtain appointment in the Respondent Bank. The allegations made against the petitioner are false. The petitioner was required to put his signature in an application form. The form was filled-up by the Management. The termination of the petitioner is punitive in nature. There is a stigma in the order of termination. The petitioner was not issued with any Charge Memo nor was any enquiry conducted before he was terminated from service. He was not given any opportunity to meet the allegations made against him. The termination of the petitioner is unfair, unjust and against the principles of natural justice. The petitioner is entitled to an order reinstating him in service with all attendant benefits.

2. The Respondent has filed Counter Statement contending as below:

A settlement under Section-12(3) of the ID Act had been entered into between the recognized Trade Union and the Respondent on 17.02.2011, for absorption of Temporary Messengers / sweepers as a one-time measure, subject to satisfaction of certain conditions regarding educational qualification and age limit. The concerned persons should have been in the service of the Respondent preceding 15.11.2010 and should have continued to be working. They should have worked for more than 240 or more days in a calendar year as on 15.11.2010. The petitioner had been absorbed in the service of the Bank by order dated 23.09.2011. The petitioner had produced documents before he was allowed to join duty. The Bank had received various complaints of corruption and nepotism in the absorption process of Messengers and Sweepers. An investigation was made by the Bank and it was found that the Transfer Certificate produced by the petitioner as one from Corporation Boys Higher Secondary School, Nungambakkam was a fake one. In the application for absorption itself the petitioner had made a declaration that if the information and particulars given by him are not correct or if any suppression has been made he will be disqualified and if appointed his appointment is liable to be terminated without notice. Based on the Investigation Report dated 05.12.2013 the petitioner was terminated from service on 21.12.2013. It was later found that the petitioner was absorbed in service while engaged as Personal Driver for the Executive of the Bank. As per the settlement dated 17.02.2011 and the circular of the Bank dated 23.03.2011 only persons who were engaged as Casual/Temporary Messengers/Sweepers were eligible to be absorbed in the service of the Bank. The Bank had taken disciplinary action against the officials who were involved in the scam related to absorption of Messengers and Sweepers. Principle of natural justice cannot be claimed by persons who has committed fraud by producing bogus educational certificate and has made misrepresentation in respect of his working period. Persons engaged by Executives as Driver are not eligible for absorption as per the circular dated 23.03.2011. The petitioner is not entitled to any relief.

3. In the rejoinder filed the petitioner has denied the allegations made against him in the Counter Statement and has reiterated his case in the Claim Statement.

4. The evidence in the case consists of oral evidence of WW1 and MW1 and documents marked as Ext.W1 to W5 and Ext.M1 to Ext.M3.

5. **The points for consideration are:**

- (i) Whether the termination of the petitioner from service by the Respondent is justifiable?
- (ii) What, if any, is the relief to which the petitioner is entitled?

The Points

6. The petitioner was appointed in the service of the Respondent Bank by order dated 23.09.2011. According to the petitioner he had started to work in the Bank as Driver-cum-Messenger even in January 2004. He had been seeking absorption in the service of the Bank and in the year 2011 when the Management had taken steps for absorbing Temporary Workers he had made another request and on the basis of an interview he is said to have been selected and appointment order issued to him. By order dated 10.04.2012 the petitioner had been confirmed in service also. The Respondent had terminated him from service without prior notice by order dated 21.12.2013. the case of the respondent is that the petitioner had got appointment on the basis of a bogus transfer certificate that was produced by him alongwith the application given by him on the basis of the settlement dated 17.02.2011 providing for absorption of Temporary Messengers and Sweepers.

7. The Respondent had examined the Chief Manager of the Enquiry Cell to substantiate its case. The petitioner also got him self-examined. In the Proof Affidavit filed by MW1, the case in the Claim Statement is reiterated. It has been stated that even as per the Appointment Order the petitioner was allowed to report for duty only on production of the documents. Again, as per Clause-2 of the Appointment Order the service was liable to be terminated if the documents produced are found to be forged, tampered with, etc. MW1 is not the one who had conducted investigation regarding production of false certificate by the petitioner. However, the Investigation Report has been marked through MW1.

8. The petitioner has stated in the Proof Affidavit filed by him that it was on the basis of an interview held on 18.08.2011 he was selected. According to him, he was appointed as Driver-cum-Messenger.

9. The petitioner does not refer to any application for absorption having been made by him to the Respondent. What he has stated in his Claim Statement is that when the Respondent was in the process of absorbing temporary workers he had approached the Management seeking to confirm him in service and it was accordingly he was called for interview and selected. However, in the subsequent paragraph of the Claim Statement he had stated that he was required to put his signature in an application form and the application form was filled-up by the Management after obtaining his signature. He has further stated that he had not submitted any Bogus Certificate as alleged in the order of termination.

10. Ext.W1 is the order of appointment issued to the petitioner. It could be seen from this that his appointment was only as Messenger and not as Driver-cum-Messenger as claimed by him in the Claim Statement. The Appointment Order contains the clauses regarding the authority of the Respondent to terminate the employee from service in case of any false information, misrepresentation, production of bogus certificate, etc. Ext.W3 is the order of termination issued to the petitioner. In this it is stated that the petitioner had submitted a copy of the Transfer Certificate dated 06.07.2000 purported to be issued by the Headmaster of Corporation Boys Higher Secondary School, Nungambakkam and this was found to be a bogus one. The termination order has quoted the declaration given by him in his application form that in case the details furnished by him are incorrect he is liable to be terminated from service.

11. Ext.M2 is the letter given by the petitioner to the Deputy General Manager of the Bank in which he has stated that alongwith the application submitted by him he is enclosing the Transfer Certificate issued by the school where he had studied and also the Community Certificate. It is very much clear even from his Claim Statement and also from his evidence that application was given by him on the basis of the settlement entered into by the Respondent for absorption of temporary workmen. It is apparent from Ext.M1 that the petitioner was aware of the investigation that was conducted against him. In this there is no reference to his working as Messenger but only as Driver. There is also reference to a union leader asking for some amount as bribe. Ext.M3 is the Investigation Report which states that the certificates submitted by the petitioner were found to be bogus. The copy of the certificates submitted by the petitioner is also enclosed.

12. The argument that is advanced on behalf of the petitioner is that the termination of the petitioner from service is against the principles of natural justice as prior notice nor a charge sheet was not issued to him or enquiry was conducted. There is no doubt that termination of the petitioner from service is without issuing a charge sheet or conducting any enquiry. The counsel for the petitioner has referred to Clause-12 of the Bipartite Settlement which provides for disciplinary action against an employee. The Respondent has been harping on the terms included in the application as well as the clauses in the Appointment Order in which the employee has agreed to be terminated from service in case of any misrepresentation, production of bogus documents, etc. The case of the Respondent is that in a cases where fraud is involved the principles of natural justice need not be invoked. The counsel for the petitioner has referred to an unreported decision of the Karnataka High Court in a matter involved in Indian Overseas Bank in Writ Appeal No. 1334 and 1335/2015 where it was held that where orders of termination were passed without holding an enquiry regarding the alleged misconduct, in the absence of establishing the said fact the termination could not have been made. However in the decision in *BANK OF INDIA AND ANOTHER VS. AVINASH D. MANDIVIKAR* in Civil Appeal No. 347/2004 the Apex Court has held that equity jurisdiction cannot be exercised in the case of a person who got appointment on the basis of a false Caste Certificate by playing fraud and that equity of compassion cannot be allowed to bend the arms of law in a case where an individual acquired a status by practising fraud. It has been held by the Apex Court in the decision in *SUPERINTENDENT OF POST OFFICES AND OTHERS VS. R. VALASINA BABU* in civil Appeal No. 5858/2006 that if the employee concerned had played fraud in obtaining an appointment it will not be necessary to initiate disciplinary proceedings against the concerned person. Again in the decision in *UP JUNIOR DOCTORS ACTION COMMITTEE VS. DR. B. SHEETAL MANDWANI* reported in AIR 1999 SC 909 the Apex Court has held that admission to the course having been obtained by fraud no opportunity of hearing need be given before cancelling it. Thus it could be seen that cases involving fraud are placed by the Apex Court in a different footing unlike in a case of termination on account of other reasons.

13. Even otherwise the petitioner is not entitled to any relief. In the decision of Karnataka High Court referred to earlier the aggrieved person had approached the High Court directly by a Writ Petition. In the present case the petitioner had raised the Industrial Dispute. As already discussed the Respondent had established the basis upon which the termination of the petitioner was effected. There is sufficient evidence let in through MW1 and the documents and also the admission by the petitioner himself that the petitioner had put in an application and it was on that basis his selection was made. His case is that he had not produced any certificate alongwith the application or subsequently. However, the settlement for absorption envisage certain pre-conditions including educational qualification and it would not have been possible for the petitioner to be appointed in the absence of production of the certificate. When the matter is before this forum which is the adjudicating the dispute as per the provisions of the ID Act, the Respondent having produced all its documents to establish its case the petitioner had the opportunity to prove that he was actually eligible to be appointed as per the terms of the settlement. Even though the case of the Respondent is that bogus certificate has been produced, other than making a denial of it the petitioner has not lifted his finger to prove that he has got the required qualification and he is eligible to be appointed as per the terms of the settlement. The petitioner is the person who must be in custody of the document to prove that he is eligible for absorption. When the Respondent has put in sufficient evidence the burden had shifted upon the petitioner to prove that he is eligible to be appointed. Even though the Respondent has not conducted any enquiry before termination of the petitioner from service, it is established through the evidence before this Tribunal that the appointment of the petitioner was on the basis of a false certificate. So the petitioner is not entitled to the relief claimed.

On the basis of the above discussion the reference is answered against the petitioner. An Award is passed accordingly.

(Dictated to the PA transcribed and typed by him, corrected and pronounced by me in the open court on this the 11th May, 2017).

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri K. Baburaj
For the 2nd Party/Management : MW1, Sri P.G. Sankar Krishnan

Documents marked

On the Petitioner's side

Ext.No.	Date	Description
Ext.W1	23.09.2011	Order of Appointment issued to the petitioner, appointing him as a Messenger
Ext.W2	26.05.2012	Confirmation Order issued to the petitioner
Ext.W3	21.12.2013	Order of Termination issued to the petitioner
Ext.W4	14.09.2015	Petition filed by the petitioner under Section-2A of the Industrial Dispute before the Assistant Commissioner of Labour (Conciliation Officer), Chennai
Ext.W5	10.04.2002	Provisions of bi-partite settlement in respect of disciplinary action against the employees of the Respondent Bank

On the Management's side

Ext.No.	Date	Description
Ext.M1	26.10.2013	Petitioner letter to Investigation Officer
Ext.M2	17.05.2011	Petitioner's letter to Respondent enclosing application
Ext.M3	05.12.2013	Investigation Report

नई दिल्ली, 26 मई, 2017

का.आ. 1352.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ बड़ौदा के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर (उ.प्र.) के पंचाट (संदर्भ सं. 5/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.05.2017 को प्राप्त हुआ था।

[सं. एल-12012/191/2004-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 26th May, 2017

S.O. 1352.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 5/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur (U.P.) as shown in the Annexure, in the Industrial Dispute between the management of Bank of Baroda and their workmen, received by the Central Government on 26.05.2017.

[No. L-12012/191/2004-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE SRI SHUBHENDRA KUMAR, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR

Industrial Dispute No. 5 of 2005

In the matter of dispute between-

The General Secretary,
Bank of Baroda Staff Association U.P.
Madhav Bhavan,
15/222-A, Civil Lines,
Kanpur

And

The Assistant General Manager,
Bank of Baroda,
Regional Office,
19 Way Road,
Lucknow

AWARD

1. Central Government, MoI, New Delhi vide notification No. L-12012/191/2004-IR(B-II) dated 27.12.2004, has referred the following dispute for adjudication to this tribunal.
2. Whether the action of the management of Bank of Baroda imposing the Punishment contained in order No. UPL 29/BIG-1054 dated 23.10.03 Passed by the disciplinary authority on Sri Ram Gopal Singh Head Cashier is legal and justified? If not what relief is the disputant workman is entitled?
3. It is as fact as appear from the records of the case that worker while he was working as Head Cashier at Branch Office Dalmau in District Rai Bareilly was suspended by the bank by order dated 08.12.93 and the same was lifted by the management by order dated 03.09.97. After revocation of the suspension order he was posted at Salon branch of the bank. Subsequently by order dated 29.01.02 he was charge sheeted by the disciplinary authority for the following reasons.
4. That on 04.12.93 (Saturday) you accompanied with Mr. D. S. Martolia Jt. Manager and Mr. Ram Kumar Peon in the strong room for the purpose of closing of cash in the safe. The case safe was closed by locking the same by the key held by you without application of key of Joint Manager.
5. That you left the strong room without ensuring that cash safe was properly closed as seal was not put in your presence.
6. Instead of carrying the cash keys with you, you left the same in the drawer of the cash cabin of Dalmau Branch on 04.12.93 overnight.
7. On 06.12.93 when you came in the branch and found the latch of drawer broken you did inform about it to anybody.
8. On 06.12.93 when you entered in the strong room and found the seal of cash safe broken instead of reporting the matter to branch manager you preferred to apply your cash key to unlock and open the cash safe of the branch.
9. On 06.12.93 when the case safe being opened Mr. D.S. Martolia joint manager found that while applying his key, the same was not moving in opening direction, he felt unusual and informed the same to you. You have not informed the fact to anyone but immediately moved the handle of cash safe. The cash safe was thus opened but the entire cash kept in the cash safe amounting Rs. 392490.75 was found missing.
10. You were negligent as joint custodian of cash which facilitated the loss of cash amount to Rs. 392490.75 missing from the cash safe of out Dalmau branch Raebareilly.
11. The worker thus was charged as follows-
 - a. You committed acts which show lack of integrity on your part.
 - b. You did acts, which are prejudicial to the interest of the bank.
 - c. You committed acts amounting to breach of trust reposed in you by the bank.
 - d. Your above acts have caused serious loss to the bank.
12. After conclusion of the inquiry, inquiry report was submitted to the disciplinary authority by in the inquiry officer who after considering the same passed final order against the worker by order dated 23.10.03 on proved charge No.1 to 4 imposing penalty on charge No.1 with drawl of special allowance of Head cashier and on remaining charge 2 to 4 punishment of bringing down by two stages in the pay scale and in his in all worker

was brought down to 6 stages in time scales. It was also ordered by the disciplinary authority that not as a penalty an amount of 50% of financial loss (Rs. 392490.75) suffered by the bank due to the acts/omissions on the part of CSE together with interest at PLR in suitable equitable monthly instalments shall be considered to be recovered from Mr. Ram Gopal Singh as administrative action. Further any residual unrecovered amount shall be recovered from the terminal benefits payable to Mr. Ram Gopal.

13. The final order was passed by the disciplinary authority after providing the worker opportunity of personal hearing.

14. From the record of domestic file it appears that the worker had not preferred any appeal assailing the final order before the appellate authority.

15. Worker has filled his statement of claim in which it is alleged that in the finding of enquiry officer it has come that cash safe was properly locked and sealed in the presence of G.S. Martolia the branch manager and Sri Ram Kumar Peon. It shows that the worker was a honest man and his integrity cannot be doubted. It is also alleged that second charge is a vague charge and inquiry officer has not given any reasons for his findings is very sketchy report has been drafted. Before awarding him punishment show cause notice was issued to him and submissions made by him in the letter dated 20.05.03 were not considered. He further alleged that disciplinary authority did not go through evidence on record in violation of natural justice and passed a punishment order against the povisions of bipartite settlement.

16. Management has filed written statement in which the entire claim of the worker has been refuted. It is also alleged that the worker has rightly been issued charge sheet by the bank for committing serious misconduct and disciplinary inquiry has also rightly been held by the inquiry in accordance with the rules of natural justice and the worker has been given adequate and proper opportunity of his defence. Prior to inflicting the punishment order the worker was issued a show cause notice by the disciplinary authority proposing the tentative punishment and after receipt of the submissions of the worker punishment as proposed in the show cause notice was confirmed by the disciplinary authority. It is also alleged that the worker being head cashier was the joint custodian of keys of the cash safe and he should never part with the keys. In the matter FIR was lodged at P.S. Dalmau on 6.12.93 in which charge sheet has been submitted against Ram Gopal Singh worker.

17. Worker has also filed rejoinder in which nothing new has been stated except reiterating the facts already pleaded by him in his claim statement.

18. After exchange of pleading case was fixed for evidence of parties case was fixed for evidence of the parties and worker Ram Gopal Singh examined himself as W.W.1. and thereafter management examined Raj Kumar Saxena M.W.1 but worker despite giving opportunity did not cross examin the management witness and absented himself from attending the case.

19. On 20.04.12 my predecessor has passed the order fixing a date for disposal of preliminary issue. A perusal of record shows that no preliminary issue was framed which was later on framed on 11.03.15 regarding fairness of domestic inquiry.

20. None appeared on behalf of worker to argue on his preliminary issue thereafter after hearing learned representative for the management it was decided on 21.10.15 holding that inquiry conducted by the management was just and proper. Thereafter case was fixed for final arguments and again none appeared for the worker to make submissions before the tribunal.

21. I have heard the arguments of the representative for the management and perused the record.

22. On perusal of records it appears that management has examined three witness Sri Sarvesh Bhasin, J.P. Verma and D.S. Martolia in domestic inquiry conducted by Raj Kumar Saxena who was examined before this tribunal as M.W.1. Sri R.K. Saxena has stated on oath that worker was given every opportunity of his defense and inquiry was conducted according to rules of natural justice. It is also evident from the perusal of domestic inquiry on record that worker was a joint custodian of the cash safe as he was working as head cashier and the worker himself has admitted in domestic inquiry that he used to keep the key in the drawer and further admitted that on 06.12.93 the kunda of drawer of cash cabin was broken and he did not find any seal in the cash safe. This statement of worker before he inquiry officer makes it clear that the worker was responsible for keeping the key with him and keeping the key in the drawer of cash cabin is latch in his responsibility on his part.

23. Considering the admission and evidence of the worker I have also examined the finding of the enquiry officer and I find that the enquiry officer has committed no illegality in recording his finding and holding the charge proved against the worker.

24. During the course of arguments it has also been argued by the management that Mr. D. S. Martolia was also charge sheeted and awarded same punishment as was given to the worker and shortage of the amount was apportioned 50% and the same was ordered to be recovered from his salary.

25. It is thus quite evident that the management was quite fair in awarding the punishment upon the worker by taking lenient view.

26. As there is no challenge by the worker on the point of quantum of punishment therefore, it is held that considering the nature of charges proved against the worker, punishment given to the worker is quite proportionate having regard to the guilt proved against him.

27. Having concluded that the charges are proved against the worker, and he was awarded appropriate punishment, there is no need to interfere and the same is upheld.

28. Accordingly reference is answered against worker and it is held that he not entitled to any relief as claimed by him.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 26 मई, 2017

का.आ. 1353.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन ओवरसीज बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चैन्नई के पंचाट (संदर्भ सं. 21/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.05.2017 को प्राप्त हुआ था।

[सं. एल-39025/01/2010-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 26th May, 2017

S.O. 1353.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 21/2016) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of Indian Overseas Bank and their workmen, received by the Central Government on 26.05.2017.

[No. L-39025/01/2010-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Thursday, the 11th May, 2017

Present : K.P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 21/2016

BETWEEN :

Sri K. Devakumar : 1st Party/Petitioner

AND

The Managing Director : 2nd Party/Respondent
Indian Overseas Bank
Central Office
Anna Salai
Chennai-600002

Appearance :

For the 1st Party/Petitioner : Sri T. Ramkumar, Advocate

For the 2nd Party/Management : M/s. N.G.R. Prasad, Advocate

AWARD

This is an Industrial Dispute taken on file under 2(A)(2) of the Industrial Disputes Act, 1947 (as amended by Act-24 of 2010 w.e.f. 15.09.2010).

1. The averments in the Claim Statement filed by the petitioner in brief are these:

The petitioner was engaged by the Respondent Bank as a Temporary Messenger. He was working in the Mount Road Branch of the Respondent from June 2006. Thereafter he was engaged in West CT Nagar branch of the Respondent. The engagement was on daily wage basis and payment was made every week. The petitioner was assigned duties like Cash Remittance, Loan Recovery, Buying Stationery Items, etc. The petitioner was also assigned with the work of Sweeping and Scavenging. The petitioner had been employed continuously without any break. He was assigned the same duties as that of a permanent workman. In spite of this the Respondent failed to confirm the petitioner in service. In the meanwhile the Respondent entered into a settlement for absorption of Temporary messengers/Full Time/Part Time Sweepers on 17.02.2011. While the petitioner was working in Nesapakkam Branch he applied for absorption, on the basis of the settlement. Along with the application he had furnished all the documents required by the Respondent. The petitioner was eligible to be absorbed in service not only on the basis of the settlement but also on the basis that the work performed by him was continuous and perennial in nature. On verification of the application submitted by the petitioner and after interview the Respondent selected and appointed the petitioner as Messenger. On satisfactory completion of the period of probation he was confirmed in service and transferred to Kodambakkam Branch and was assigned the same duties that were performed by him earlier. On 07.05.2014 the Respondent terminated the petitioner from service with immediate effect without any prior notice. In the order of termination the Respondent had alleged that the petitioner had submitted bogus transfer certificate in support of his educational qualification to obtain appointment in the Bank. This allegation is false. The termination of the petitioner from service is illegal and arbitrary. The petitioner was not issued with any Charge Memo nor was any enquiry conducted before he was terminated from service. An Award may be passed holding that the action of the Respondent in terminating the petitioner from service is unjustified and also directing the Respondent to reinstate the petitioner in service with full backwages, continuity of service and attendant benefits.

2. The Respondent has filed Counter Statement contending as below:

The Respondent had entered into a settlement with the recognized Trade Union on 17.02.2011 regarding absorption of Temporary Messenger/Sweepers as a one-time measure subject to the satisfaction of certain educational qualification and age limit. The concerned person should have been in service immediately preceding 15.11.2010 and should have continued to be working also, to be absorbed. The person should have worked and completed 240 or more days in a calendar year as on 15.11.2010. The petitioner was absorbed in the service of the Bank as per the settlement dated 17.02.2011. He was posted at Nesapakkam Branch. On the basis of the instructions given the petitioner had submitted certificates and documents to prove his educational qualification, age, etc. The Bank had received various complaints regarding the recruitment and an investigation was conducted to verify the credentials of those who were absorbed in the service of the Bank as per the settlement dated 17.02.2011. The CBI has registered complaints against persons who were involved in the recruitment scam. An investigation is going on. On investigation conducted by the Bank it was found that the petitioner had submitted bogus transfer certificate to get into service. In the application submitted by him the petitioner has declared that if any statements made by him are incorrect or any false information has been submitted by him he is liable to be disqualified and if appointed he is liable to be terminated from service. The petitioner was terminated from service based on the investigation report dated 12.05.2014. The petitioner is not entitled to any relief.

3. The petitioner has filed rejoinder denying the allegations in the Counter Statement and reiterating his case in the Claim Statement.

4. The evidence in the case consists of oral evidence of WW1 and MW1 and documents marked as Ext.W1 to Ext.W4 and Ext.M1 and Ext.M2.

5. **The points for consideration are:**

- (i) Whether the Respondent is justified in terminating the petitioner from service.
- (ii) What, if any is the relief to which the petitioner is entitled?

The Points

6. The petitioner is said to have been working in the Respondent establishment as a Temporary Messenger from June 2006. He had made an application for absorption in the service of the Bank on the basis of the settlement entered into by the Bank with its recognized Trade Union on 17.02.2011, and was selected and appointed as a Messenger. After his period of probation he was confirmed in service also. The Respondent terminated him from service on 07.05.2014.

It is alleged by the Respondent that the petitioner had produced false certificate regarding his educational qualification. The termination was on account of this.

7. Ext.W1 is the Order of Appointment issued to the petitioner on 27.09.2011. The order states that the service is liable to be terminated if any material information is suppressed or if the certificates submitted by him are found to be not genuine or tampered with. In the application form submitted by the petitioner for absorption in the service of the Respondent on the basis of settlement dated 17.02.2011 the petitioner has stated that if any statements furnished by him are incorrect he is liable to be disqualified and if appointed he is liable to be terminated from service. In Ext.W2, the order of termination it is stated that the petitioner and submitted forged certificate in support his educational qualification to obtain appointment in the bank and therefore he is liable to be terminated from service without notice. Thus the termination is on the basis that false certificate regarding educational qualification has been submitted by the petitioner.

8. The Chief Manager of the Enquiry Cell of the Respondent has been examined as MW1. He has stated in the Proof Affidavit that the petitioner has undertaken not to furnish false or forged documents. Ext.M1 is the application submitted by the petitioner for absorption in the Respondent Bank. Ext.M2 is the Investigation Report which states that the transfer certificate submitted by the petitioner along with the application was found to be a forged one. The petitioner has stated during his examination that he has not submitted any documents alongwith his application for absorption. However, it could be seen from the very Claim Statement that he had furnished all the required documents along with the application and it was on this basis he was interviewed, selected and appointed though with a condition that in case of any false information or suppression of information his appointment is liable to be terminated.

9. The argument that is advanced on behalf of the petitioner is that the termination of the petitioner from service is against the principles of natural justice as prior notice on a charge sheet was not issued to him or enquiry was conducted. There is no doubt that termination of the petitioner from service is without issuing a charge sheet or conducting any enquiry. The counsel for the petitioner has referred to Clause-12 of the Bipartite Settlement which provides for disciplinary action against an employee. The Respondent has been harping on the terms included in the application as well as the clauses in the Appointment Order in which the employee has agreed to be terminated from service in case of any misrepresentation, production of bogus documents, etc. The case of the Respondent is that in a case where fraud is involved the principles of natural justice cannot be invoked. The counsel for the petitioner has referred to an unreported decision of the Karnataka High Court in a matter involved in Indian Overseas Bank in Writ Appeal No. 1334 and 1335/2015 where it was held that where orders of termination were passed without holding an enquiry regarding the alleged misconduct, in the absence of establishing the said fact, the termination could not have been made. However in the decision in *BANK OF INDIA AND ANOTHER VS. AVINASH D. MANDIVIKAR* in Civil Appeal No. 347/2004 the Apex Court has held that equity jurisdiction cannot be exercised in the case of a person who got appointment on the basis of a false Caste Certificate by playing fraud and that equity of compassion cannot be allowed to bend the arms of law in a case where an individual acquired a status by practising fraud. It has been held by the Apex Court in the decision in *SUPERINTENDENT OF POST OFFICES AND OTHERS VS. R. VALASINA BABU* in civil Appeal No. 5858/2006 that if the employee concerned had played fraud in obtaining an appointment it will not be necessary to initiate disciplinary proceedings against the concerned person. Again in the decision in *UP JUNIOR DOCTORS ACTION COMMITTEE VS. DR. B. SHEETAL MANDWANI* reported in AIR 1999 SC 909 the Apex Court has held that admission to the course having been obtained by fraud no opportunity of hearing need be given before cancelling it. Thus it could be seen that cases involving fraud are placed by the Apex Court in a different footing unlike in a case of termination on account of other reasons.

10. Even otherwise the petitioner is not entitled to any relief. The decision of Karnataka High Court referred to earlier shows that the aggrieved person had approached the High Court directly by a Writ Petition. In the present case the petitioner had raised the Industrial Dispute. As already discussed the Respondent had established the basis upon which the termination of the petitioner was effected. There is sufficient evidence let in through MW1 and the documents and also the admission by the petitioner himself that the petitioner had put in an application and it was on that basis his selection was made. His case is that he had not produced any certificate alongwith the application or subsequently. However, the settlement for absorption envisage certain pre-conditions including educational qualification and it would not have been possible for the petitioner to be appointed in the absence of production of the certificate. When the matter is before this forum which is adjudicating the dispute as per the provisions of the ID Act, the Respondent having produced all its documents to establish its case the petitioner had the opportunity to prove that he was actually eligible to be appointed as per the terms of the settlement. Even though the case of the Respondent is that bogus certificate has been produced, other than making a denial of it the petitioner has not lifted his finger to prove that he has got the required qualification and he is eligible to be appointed as per the terms of the settlement. The petitioner is the person who must be in custody of the document to prove that he is eligible for absorption. When the Respondent has put in sufficient evidence the burden had shifted upon the petitioner to prove that he has got the eligibility to be appointed. Even though the Respondent has not conducted any enquiry before termination of

the petitioner from service, it is established through the evidence before this Tribunal that the appointment of the petitioner was on the basis of a false certificate. So the petitioner is not entitled to the relief claimed.

On the basis of the above discussion the reference is answered against the petitioner. An Award is passed accordingly.

Dictated to the PA transcribed and typed by him, corrected and pronounced by me in the open court on this the 11th May, 2017)

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri K. Devakumar
For the 2nd Party/Management : MW1, Sri P.G. Sankarakrishnan

Documents Marked :

On the petitioner's side

Ex.No.	Date	Description
Ext.W1	27.09.2011	Order of Appointment issued to the petitioner, appointing him as a Messenger
Ext.W2	07.05.2014	Order of Termination issued to the petitioner
Ext.W3	07.08.2015	Petition filed by the petitioner under Section 2A of the Industrial Dispute before the Assistant Commissioner of Labour (Conciliation Officer), Chennai
Ext.W4	10.04.2002	Provisions of bi-partite settlement in respect of disciplinary action against the employees of the Respondent Bank

On the Management's side

Ex.No.	Date	Description
Ext.M1	27.09.2011	Application of petitioner
Ext.M2	12.04.2014	Investigation Report.

नई दिल्ली, 26 मई, 2017

का.आ. 1354.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन ओवरसीज बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चैन्नई के पंचाट (संदर्भ सं. 22/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.05.2017 को प्राप्त हुआ था।

[सं. एल-39025/01/2010-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 26th May, 2017

S.O. 1354.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 22/2016) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of Indian Overseas Bank and their workmen, received by the Central Government on 26.05.2017.

[No. L-39025/01/2010-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Thursday, the 11th May, 2017

Present : K.P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 22/2016

BETWEEN :

Sri G. Vedhagiri : 1st Party/Petitioner

AND

The Managing Director : 2nd Party/Respondent
Indian Overseas Bank
Central Office
Anna Salai
Chennai-600002

Appearance :

For the 1st Party/Petitioner : Sri T. Ramkumar, Advocate
For the 2nd Party/Management : M/s N.G.R. Prasad, Advocate

AWARD

This is an Industrial Dispute taken on file under 2(A) of the Industrial Disputes Act, 1947 (as amended by Act-24 of 2010 w.e.f. 15.09.2010).

1. The averments in the Claim Statement filed by the petitioner in brief are these:

The petitioner had joined the service of the Respondent in the beginning of the year 2009, as Temporary Messenger. Written order of appointment was not given to him. He was engaged on daily wage basis and payment was made every week. The petitioner was assigned duties such as Cash Remittance, Loan Recovery, Buying Stationery Items, Post Office Works, etc. The petitioner had been employed continuously without any break. He was employed at Veppur Branch and he was assigned duties as that of a permanent workman. In spite of continuous and perennial nature of work done by the petitioner the Management failed to confirm him in service. In the meanwhile the Management entered into a settlement on 17.02.2011 for absorption of Temporary Messengers and Sweepers in the service of the Bank. While the petitioner was working at Nesapakkam Branch he applied for absorption in accordance with the terms of the settlement. He had submitted the necessary documents alongwith his application. The petitioner was selected and appointed as Messenger on the basis of his application. He had satisfactorily completed the period of probation and was confirmed in the service of the Bank. However to the shock of the petitioner he was terminated from service by order dated 18.02.2014. It was alleged in the termination order that the petitioner submitted false declaration in respect of his service period to obtain appointment in the Bank. The allegation made against the petitioner is false. The petitioner was not issued with any Charge Memo nor was any enquiry conducted before he was terminated from service. The petitioner was entitled to permanency in service not only based on the settlement but based on the nature of work discharged by him also. The termination of the petitioner from service is without any justification. The petitioner is entitled to be reinstated in service with all attendant benefits. An Award may be passed accordingly.

2. The Respondent has filed Counter Statement contending as below:

A settlement under Section-12(3) of the Industrial Disputes Act was entered into between the recognized Trade Union and the Management on 17.02.2011 for absorption of Temporary Messengers and Sweepers as a one-time measure, subject to satisfaction of certain eligibility conditions. Besides other conditions, one of the conditions was that a candidate should have been working as Temporary Messengers or Sweepers and must have worked and completed 240 or more days in a calendar year as on 15.11.2010. The petitioner was absorbed in the service of the Respondent Bank by order dated 23.12.2011 on the basis of his application and the Service Certificate issued by the Branch Manager. The Bank had received complaints regarding corruption and nepotism in the absorption process of Messengers and Sweepers and an investigation was conducted regarding this. On investigation it was revealed that the petitioner has not worked in the Bank as claimed by him in the undertaking letter dated 12.05.2011 given by him. The Service Certificate issued by the then Branch Manager was revealed to be incorrect. In the application form submitted by him the petitioner has declared that if the particulars given by him are found incorrect he is liable to be disqualified and if appointed he is liable to be terminated without notice. The Appointment Order specified that if the certificates produced are forged or tampered with or particulars furnished are wrong the service is liable to be terminated. Based on the Investigation Report dated 03.01.2014 and the letter of the petitioner dated 27.09.2013 he was terminated from the service of the Bank. Action has been taken against the then Branch Manager of Veppur Branch for issuing false Service Certificate. Principles of natural justice cannot be afforded to a person who has committed fraud by producing bogus certificate. The petitioner was engaged in the Bank only from November 2010. The petitioner is not entitled to any relief.

3. The petitioner has filed rejoinder denying the allegations made in the Counter Statement and reiterating his case in the Claim Statement.

4. The evidence in the case consists of oral evidence of WW1 and MW1 and documents marked as Ext.W1 to Ext.W4 and Ext.M1 to Ext.M4

5. **The points for consideration are:**

- (i) Whether the action of the Respondent in terminating the petitioner from service is justified?
- (ii) What, if any is the relief to which the petitioner is entitled?

6. The petitioner had claimed in the Claim Statement that he had started to work with the Respondent Bank in the beginning of 2009 as a Temporary Messenger. He applied for absorption in the service of the Respondent Bank on the basis of a settlement dated 17.02.2011 entered into between the Bank and the recognized Trade Union. On the basis of the application the petitioner was interviewed and selected and was given appointment at Veppur Branch of the Bank as Messenger by Appointment Order dated 23.12.2011 marked as Ext.W1. After period of probation he was confirmed in service also. He was terminated from service by Ext.W2 order on 18.02.2014 without issuing any Charge Memo or conducting any enquiry. The Termination Order states that the petitioner has willfully and with ulterior motive submitted false certificate to the Bank in support of his experience. Though it was claimed by him that he had been working from June 2006, he was found to have worked with the Bank as Temporary Messenger only from November 2010 thus making him ineligible to be appointed in the Bank on the basis of the settlement dated 17.02.2011. It is contended on behalf of the petitioner that the termination of the petitioner from service is against the principles of natural justice in so far as the Bank has not issued any Charge Memo or conducted any enquiry and is against the provisions of the Bipartite Settlement in respect of disciplinary action against the employees also. It is a fact that a Charge Memo was not issued or domestic enquiry was not conducted before terminating the petitioner from service. The counsel for the petitioner has referred to the unreported decision of the Karnataka High Court in Writ Appeal No. 1334/2015 involving the Respondent Bank itself where it was held that in so far as the misconduct alleged was not established by conducting an enquiry termination of the employee is not proper.

7. According to the Respondent in case where fraud is involved the principle of natural justice cannot be involved. The Respondent has been harping on the terms included in the application given by the petitioner as well as the clauses in the Appointment Order in which the employee has agreed to be terminated from service in case of any misrepresentation, production of bogus documents, etc. In the decision in *BANK OF INDIA AND ANOTHER VS. AVINASH D. MANDIVIKAR* in Civil Appeal No. 347/2004 the Apex Court has held that equity jurisdiction cannot be exercised in the case of a person who got appointment on the basis of a false Caste Certificate by playing fraud and that equity of compassion cannot be allowed to bend the arms of law in a case where an individual acquired a status by practicing fraud. It has been held by the Apex Court in the decision in *SUPERINTENDENT OF POST OFFICES AND OTHERS VS. R. VALASINA BABU* in Civil Appeal No. 5858/2006 that if the employee concerned had played fraud in obtaining an appointment it will not be necessary to initiate disciplinary proceedings against the concerned person. Again in the decision in *UP JUNIOR DOCTORS ACTION COMMITTEE VS. DR. B. SHEETAL MANDWANI* reported in AIR 1999 SC 909 the Apex Court has held that admission to the course having been obtained by fraud no opportunity of hearing need be given before cancelling it. Thus it could be seen that cases involving fraud are placed by the Apex Court in a different footing unlike in a case of termination on account of other reasons.

8. Ext.M4 is the Investigation Report submitted by the Officer who was asked to conduct investigation on the scam of false Service Certificates, etc. The report states that the petitioner has submitted false service certificate along with his application. Ext.M3 is undisputedly the application submitted by the petitioner seeking absorption in the Bank. Ext.M2 is the undertaking letter given by him in terms of 17.02.2011. In this letter of undertaking he has stated that he has been working in the Veppur Branch of the Respondent Bank from June 2006 and had been working even on the date on which the undertaking was given i.e. 17.06.2011. Along with this undertaking there is a certificate from the then Manager of the Veppur Branch to the effect that the petitioner has been engaged as Temporary Messenger / Sweeper in the branch since June 2006. In the Claim Statement itself the petitioner has given up the claim that he has been working at Veppur Branch from the year 2006. As per Claim Statement his case is that he started to work from the beginning of the year 2009 but he was careful enough not to state in which branch he had started to work. He has only stated that he had submitted the application for absorption while he was working at Nesapakkam Branch. In his undertaking there is no case that he had been working at Nesapakkam Branch at all. During his evidence the case of the petitioner is still different. He had stated that he has started to work in the Bank in August 2009. He admitted that before joining the Bank he was employed in a Medical Shop. Ext.M1 dated 27.09.2013 was put before the petitioner during his cross-examination and he has admitted that this is the letter given by him to the Investigation Officer who submitted Ext.M4 report. In this letter his case is that he had started to work in the Bank in November 2010 only. Thus, according to the admission made by the petitioner himself his claim that he had worked in the Bank for more than 240 days and he is eligible to be appointed in terms of the settlement dated 17.02.2011 is proved false. So it is a case where fraud has been played on the Bank by submitting a false service certificate.

9. Even if the case of the petitioner that the action of the Bank in terminating him from service is not in accordance with the principles of natural justice is accepted he is not entitled to any relief. The petitioner is now before the Industrial Forum where he is having the opportunity to prove that he was eligible for appointment in the service of the Bank as per the settlement dated 17.02.2011 and the Bank was wrong in terminating him from service. Reference was already made to the available evidence to point out that the petitioner has started to work in the Bank only in November 2010. The petitioner is the one who claims that he had put in service of more than 240 days as on the cut-off date specified in the settlement. It was up to him to establish this fact before this forum. In the absence of this he is not entitled to any relief in any case.

In view of the above discussion the reference is answered against the petitioner. An Award is passed accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 11th May, 2017).

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri G. Vedhagiri
For the 2nd Party/Management : MW1, Sri P.G. Sankarakrishnan

Documents Marked :

On the petitioner's side

Ex.No.	Date	Description
Ext.W1	23.12.2011	Order of Appointment issued to the petitioner appointing him as Messenger
Ext.W2	18.02.2014	Order of Termination issued to the petitioner
Ext.W3	07.08.2015	Petition filed by the petitioner under Section-2A of the Industrial Dispute before the Assistant Commissioner of Labour (Conciliation Officer), Chennai
Ext.W4	10.04.2002	Provisions of bipartite settlement in respect of disciplinary action against the employees of the Respondent Bank

On the Management's side

Ex.No.	Date	Description
Ext.M1	-	Petitioner letter dated 27.09.2013
Ext.M2	17.06.2011	Undertaking letter given by the petitioner
Ext.M3	18.01.2012	Application submitted by the petitioner
Ext.M4	31.01.2014	Investigation Report.

नई दिल्ली, 26 मई, 2017

का.आ. 1355.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सैन्ट्रल बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर (उ.प्र.) के पंचाट (संदर्भ सं. 44/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.05.2017 को प्राप्त हुआ था।

[सं. एल-39025/01/2010-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 26th May, 2017

S.O. 1355.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 44/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur (U.P.) as shown in the Annexure in the Industrial Dispute between the management of Central Bank of India and their workmen, received by the Central Government on 26.05.2017.

[No. L-39025/01/2010-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

**BEFORE SRI SHUBHENDRA KUMAR, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOR COURT, KANPUR****Industrial Dispute No. 44 of 2007****Between :**

Uttar Pradesh Bank Workers Organization,
Through Sri R P Singh,
3/13 Mathura Nagar,
Aligarh

And

Regional Manager
Central Bank of India,
Regional Office,
Sanjay Place,
Agra.

AWARD u/s 33-A of Industrial Disputes Act, 1947

1. This is a complaint under section 33-A of Industrial Disputes Act, 1947, moved by one Sri R P Singh alleging himself to be the authorized representative of the worker Rajesh Kumar on the ground that worker was working at Extension Counter Sri Gandhi Ashram Banna Devi Aligarh of Central Bank of India as part time safai karmchari on consolidate wages since 1.1.95 and on the direction of the branch manager worker was conducting the work of orderly and daftri in addition to his work of scavenging the branch, but he was not paid salary of daftri as such he raised an industrial dispute which has been registered as Industrial Dispute No. 36 of 06.
2. It is further alleged that during the pendency of above dispute worker was transferred to patiyali branch in violation of the provision of section 33-A of Industrial Dispute Act, 1947, which amounts to change in his service condition, therefore, this complaint is moved before this tribunal with the prayer that his illegal transfer may be cancelled and the branch manager may be punished. This complaint of the alleged representative for the worker is registered as industrial Dispute No. 44 of 2007.
3. Management has filed its reply alleging therein that the complaint filed by the representative for the worker is against the provision of section 33-A of the Act and is not maintainable as worker himself is aggrieved person and complaint s filed by Sri R P Singh being an office bearer of such union which is neither registered nor recognized by the bank under the provision of Trade Union nor ever the complaint has been signed and verified by the worker as such complaint is not maintainable before this tribunal and is liable to be rejected.
4. Worker Rajesh Kumar has examined himself as w.w.1 and in his support R P Singh has examined himself as w.w.2.
5. On behalf of management an officer by name Sri Sunil Kumar examined himself as M.W.1.
6. Learned representative for the management contended that under section 33-A of the act it is mandatory that aggrieved worker should have filed the complaint himself and not by other person on his behalf.
7. In reply on this point authorized representative for the worker contended that the Worker has authorized him to file the complaint.
8. On perusal of record it appears that Sri R P Singh authorized representative for the worker has filed the complaint himself on 2.4.08 and it is also clear that affidavit filed in support of claim is also verified by him and not by the worker nor Sri R P Singh has filed any authority letter along with the complaint.
9. Worker Rajesh Kumar w.w.1 has himself admitted in his cross examination that he has not signed paper no. 1/1-6 which is complaint supported by affidavit. He has also admitted that he has not received the copy of reply filed by the management but it was given to his NETAJI. He has not signed any paper before 18.03.08.
10. In this regard R P Singh w.w.2 has stated in his cross examination that on the saying of worker he has filed the complaint which is confirmed by the affidavit of worker dated 12.10.09. He also admitted that worker Rajesh Kumar has not signed the complaint.
11. On perusal of record it appears that Sri R P Singh has moved application 10/1-3 for punishing officer of the bank 24.07.09 and this application is signed and verified by Sri R P Singh and above the verification clause Rajesh

Kumar has also signed on this application wherein it is stated that this complaint is filed by Sri R P Singh on the direction given by the worker but again it is very clear that affidavit 10/1 filed in support of application is given by Sri R P Singh and not by the worker and worker has given another affidavit 14/1 with application 14/2-5 stating therein that on his direction Sri R P Singh has filed the complaint. It appears that authorized representative of the worker tried to fill up the lacuna raised by the management in their reply, but in no way the complaint filed by authorized representative for the worker can be termed to be complaint of worker as no authority letter has been filed along with complaint.

12. In the proceedings under section 33-A of the Act only employee is empowered to make complaint being an aggrieved person. It appears that without the knowledge of the worker Sri R P Singh has filed the complaint without authority.

13. Therefore, no relief can be given to worker Rajesh Kumar on this point.

14. As such the complaint moved by Sri R P Singh appears to be misconceived and against the provision of section 33-A, of the Act therefore, worker is not entitled for any relief claimed by him.

15. Accordingly present I. D. case is decided against the worker and in favor of the management.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 26 मई, 2017

का.आ. 1356.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बंगलौर के पंचाट (संदर्भ सं. 06/2012) (सी.आर. 50/2012 एवं सी.आर. 06/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.05.2017 को प्राप्त हुआ था।

[सं. एल-12012/08/2012-आईआर (बी-II),

सं. एल-12012/07/2012-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 26th May, 2017

S.O. 1356.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 06/2012) (CR 50/2012 & CR 06/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the management of Bank of India and their workmen, received by the Central Government on 26.05.2017.

[No. L-12012/08/2012-IR (B-II),

No. L-12012/07/2012-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 09th May, 2017

PRESENT : Shri V. S. RAVI, Presiding Officer

ID No. 06/2012

c/w

CR 50/2012 & CR 06/2013

I Party

Shri. Jayashrivani K,
No. 2305, 27th Main, 16th Cross,
HSR Layout, Sector -I
Bangalore - 560102

Advocate for I Party: Mr. Muralidhara

II Party

The Deputy Zonal Manager
Bank of India,
Karnataka Zone, K G Road,
Bangalore-560009

Advocate for II Party: Mr. G.K.V. Murthy

AWARD

1. Brief details mentioned in the claim statement are as follows:-

The I Party/ Workman is aggrieved by the order of dismissal dated 22.08.2011 passed by the Deputy Zonal Manager, Karnataka Zone in terms of Clause 6(a) of the Memorandum dated 10.04.2002 with immediate effect. The I Party/Workman submits that, she joined the services of the II Party/Management as Clerk on 18.04.1984 and has rendered 27 years of honest and dedicated service to the Bank. Further, the I Party states that, the Chief Manager (A&S), Bangalore Main Branch, claiming himself as the Disciplinary Authority, issued Memorandum dated 30.06.2004 to the I Party alleging therein that while working as Cashier in Counter No. 1 of the Bank on 03.04.2004, she went out of the cash cabin to meet the Deputy Chief Manger (A&S) keeping the cash cabin unlocked and that, at about 1.30 pm she reported cash shortage to the extent of Rs. 7,70,000/- and that she has been negligent in her duties on 03.04.2004, resulting in loss of Rs. 7,70,000/- to the Bank. Thereupon the I Party submitted her explanation in writing, wherein she submitted that, the ground floor of Bangalore Main Branch has been renovated and inaugurated on 26.03.2004 and even as on the day of inauguration the cabins of cashier have not been provided with adequate locking facility, security/safety sirens, shelves and drawers for keeping the cash during transaction. Further, the installed lock has not worked, properly. Further, due to the malfunctioning of the locking system, coupled with the heavy rush of transaction on the said day, the shortage of cash in the cash cabin, occurred. Further, the I Party submitted that the loss of cash has been due to faulty and inadequate security system and not because of her negligence. It is relevant to submit that the II Party/Management has placed her under suspension by order dated 05.04.2004. Thereafter, the Chief Manager (A&S), claiming himself to be the Disciplinary Authority issued charge sheet dated 23.07.2004 alleging commission of gross misconduct of doing the act prejudicial to the interest of the Bank or gross negligence or negligence involving or likely to involve the Bank in serious loss. In the meanwhile the II Party has also filed a criminal complaint on the same incident of 03.04.2004 and the said complaint has resulted in a criminal case before the Criminal Court. The Hon'ble High Court of Karnataka allowed the Writ Petition on 16.09.2009 and directed the Bank not to proceed with the enquiry until conclusion of the criminal trial. However, the writ Appeal filed by the II Party Bank has been allowed. Thereafter, the Deputy Zonal Manager, claiming himself to be the Disciplinary Authority, issued Memorandum dated 24.09.2010 to resume enquiry in respect of the charge sheet dated 23.07.2004. Further, the II Party appointed one Sri. V.C. Belle, Senior Manager as the Enquiry Officer and one Ms. R.Nirmala, Manager, Whitefield Branch as the Presenting Officer. The I Party has to engage the services of a co-worker from the Bank, reluctantly. Further, the I Party states that, the Enquiry Officer conducted the enquiry in total disregard to the principles of natural justice and provisions of the Bipartite Settlements governing the subject of Domestic Enquiry. Hence, there has been the bias, writ large in the enquiry held by the II Party/Management. The Enquiry Officer has not bestowed any attention or consideration to the valid arguments submitted by the I Party. The bias of the Enquiry Officer has been evident from the enquiry report which failed to consider the evidence in favour of the I Party. Further, without considering the objections filed by the I Party, the Management issued Show Cause Notice dated 28.07.2001 proposing to impose the punishment of "Dismissal without Notice." However, the II Party without considering the just and reasonable plea of the I party, and also, without considering the facts and circumstances of the case and without taking into account, the excellent past service of the I party, imposed the punishment of dismissal from service. Thus, the I Party has suffered, injustice at the hands of the II Party/Management. The loss of cash occurred on account of lack of proper security provided to cash cabins and the said fact has been brought to the notice, in time by the I Party. Further, the I Party has not committed the misconduct of negligence on 03.04.2004. The cash loss is attributable to the lack of proper security provided by the Management. The I Party has been singled out and proceeded against. Hence, the action of the Management amounts to selective victimization. Further, the Enquiry Officer has not explained the procedures of the enquiry. The Enquiry Officer completely ignored the evidence in favour of the I Party/Workman. Further, the punishment of dismissal imposed on the I Party by the II Party is unjust, arbitrary, capricious and illegal. Hence, the order of punishment is unsustainable in law. The I Party/Workman is entirely dependent on the job with the II party/Management for her livelihood. The II party has taken away the same in an arbitrary manner. I Party has no other source of income to eke out a living for herself and her dependent family members. She is not gainfully employed and she no prospects of getting employment elsewhere in view of the stigmatic order of dismissal. Therefore, the I Party prays this Court to pass an Award.

- (a) To set aside the order of dismissal dated:22.08.2011 passed against her by the II party as unjust, arbitrary, discriminatory and illegal.
- (b) To direct the II party to reinstate her in to their service with full back wages, continuity of service and all other consequential benefits,

2. Brief details mentioned in the Counter statement are as follows:-

The I party has served as the Head Cashier in the Bangalore Main Branch of the II Party-Bank and on account of huge amount of cash shortage reported on 03.04.2004, she has been placed under suspension by the order dated

05.04.2004. The I party submitted her reply dated 10.07.2004 to the Memorandum. Further, I party has not sent any convincing reply and hence, a Charge Sheet bearing Ref. No. BGL/GN/DA/240 dated 23.07.2004 for the gross negligence in handling cash has been issued and a Departmental Enquiry in the matter has been initiated. Further, on 03.04.2004 at about 10.45 am, the I party went to the currency chest located at the basement of the branch and brought cash of Rs.24,05,000/- in following denominations:

Denominations		Value
Rs.500 x 4000	=	Rs.20,00,000.00
Rs.100 x 2000	=	Rs.2,00,000.00
Rs.50 x 2000	=	Rs.1,00,000.00
Rs.20 x 5000	=	Rs.1,00,000.00
Rs.5 x 1000	=	Rs.5,000.00

Even though the I party has been provided with specially designed steel box for carrying cash from currency chest with proper locking facility, the cash has been brought to Cash cabin in a different steel box from currency chest, by the I party with the help of Sh. Hanumanthaiah, sub-staff of the branch. The box has not been locked. Again at about 12:10pm, I party has brought additional cash of Rs.16,20,000/- for meeting payments for the day and next day morning in following denominations.

Denominations		Value
Rs.500 x 2000	=	Rs.10,00,000.00
Rs.100 x 4000	=	Rs.4,00,000.00
Rs.50 x 4000	=	Rs.2,00,000.00
Rs.20 x 1000	=	Rs.20,000.00

Further, during the day, I party went out of the cash cabin to meet the DCM (A&S) for enquiring about her LFC entitlements, etc., while doing so, I party has left the cash cabin unattended. At about 1.30 PM, after balancing the cash, the I party reported a cash shortage of Rs.7.70 lakhs. Immediately, thereafter, entire transactions of the day have been checked, the cash has been physically verified and shortage of Rs.7.70 lakhs has been confirmed. Thus, the I Party has acted in grossly negligent manner, which resulted in a loss of Rs.7.70 lakhs to the bank. The I Party's aforesaid act of bringing cash, in box without locking and leaving cash cabin without exercising the due care and caution, will amount to gross misconduct in terms of Para 5(j) of Bipartite settlement dated 10.04.2002. Further, the bank filed Writ Appeal No.276/2010 before the Hon'ble High Court of Karnataka against the stay order passed in favour of I party in WP No.34849/2004. The Hon'ble High Court vide order dated 17.08.2010 allowed the writ appeal permitting the Bank to proceed with the departmental enquiry, in respect of the Charge Sheet issued. On conclusion of the same, the Enquiry Officer submitted his findings dated 18.04.2011, holding that the charges levelled against I party are proved. Later, a personal hearing has been given to the I Party on 10.08.2011 in the matter and after considering the submissions and having regard to the seriousness of the acts of the gross negligence proved against the I party, the Disciplinary Authority passed the punishment order dated 22.08.2001 inflicting the punishment of 'Dismissal without notice'. As can be observed from the aforesaid factual position, the disciplinary action initiated and the punishment imposed on the I party has been in accordance with the principles of natural justice and the rules governing her service conditions and the punishment imposed is just and proper, due to the gravity of acts of misconduct. The question of permitting a Charge sheeted employee to be defended by an advocate in the enquiry would arise only when the Presenting Officer is legally trained. In the present case, the Presenting Officer has not got the Law degree or legally trained person. Thus, all reasonable opportunities have been given to the I party under Bipartite Settlement to defend herself along with the Defence Representative of her choice and she has availed the same. The enquiry held against the I party has been done, in accordance with law and therefore cannot be said to have been vitiated, as wrongly contended by the I party. The enquiry conducted has been fully in accordance with the procedure laid down in the Bipartite Settlement of 10.04.2002 and all the reasonable opportunity has been given to the I Party for defending herself. The enquiry report cannot by any stretch of imagination be called unreliable and it is a well reasoned report. The order of punishment has been passed after taking all aspects into consideration and without ignoring any material fact. Loss of

cash occurred solely due to the negligence and misconduct of the I party and not due to the alleged lack of proper security provided to cash cabins. The action taken against the I party has been fully in accordance with law and cannot be termed as selective victimization. The enquiry has been held by the following principles of natural justice. The I party has been punished for gross negligence while performing her duties as Head-Cashier, Bangalore Main Branch and the same is termed as misconduct under para 5(j) of the Bipartite Settlement dated 10.04.2002. The order of punishment has been passed after taking into consideration all the relevant facts. The plea of the I Party to reinstate her with all consequential benefits, for the reasons stated by her, is not tenable. Hence, it is prayed that this Court may be pleased to reject the claim of the I party with exemplary costs, in the interest of justice and equity.

3. The pertinent point that arises for consideration in the present case is as follows:-

“Whether action of management of Bank of India/II party in imposing the punishment of dismissal without notice from service on Smt. Jayashrivani K, Ex Staff Clerk/I party w.e.f 22.08.2011, is legal and justified? to What relief the concerned workwoman is entitled to?”

4. **POINT :-** As RW-1 the Assistant General Manager of II Party Bank has been examined and he has admitted that he has served as Assistant General Manager at Bangalore Main Branch and he is familiar with the facts of the case both from his personal knowledge and the records of the Bank. Further, RW-1 states that, the duty of I Party included receiving cash from the customers of the Bank and paying cash to them and also he states that on 03.04.2004, the I Party went to the currency chest located at the basement of building at about 10.45 am and brought cash of Rs. 24,05,000/-. Further, RW-1 also states that, the I Party reported shortage of cash of Rs. 7,70,000/- at about 2 pm. Thereafter, the I Party gave the letter dated 03.04.2004 in which she mentioned about the said cash shortage and also, complained about the defective locking system of her cabin. Subsequently, voucher has been passed for Rs. 7,70,000/- towards the suspense account. Hence, it is clear that on the date of the said incident itself, the I party has lodged the said written complaint about the defective locking system to the RW-1. Further, the RW-1 has admitted that he has lodged the complaint with the Upparpet Police only on 04.04.2004 reporting about the shortage of cash and also, requested for investigation into the matter. Further, MW-1 has admitted that Sri. Vaidyanathan, officer of the Bank, has conducted internal investigation into the matter and submitted his report dated 10.04.2004 to the Bank, in which he has held the I Party responsible for the shortage of cash. However, the said officer has not been examined by the II party to establish the said details. For, not examining the said, Sh. Vaidyanathan also II party has not submitted any convincing reasons.

5. Further, RW-1 lodged another complaint on 09.06.2004 with Upparpet Police alleging misappropriation of money by the I Party and also requested for appropriate action in the matter to recover the money and bring the culprits to book. Further, RW-1 also states that, the I Party went out of the cash cabin to meet Sri S.R. Kadam, the Deputy Chief Manager (A&S) (RW-2) of the Branch at about 12 noon on 03.04.2004 to enquire about her leave travel concession entitlement without locking the cash cabin and she has not made use of the cash safe provided in the cash cabin to keep cash and the Bank has incurred huge loss of money due to the I party's negligence/ connivance/ misappropriation of the money. However, on 04.04.2004 as per Ex-R8, the RW-1 has lodged the complaint with the police by stating that the said cash has been found to be missing from the cash counter of the branch. On 04.04.2004, itself the RW-1 has lodged another complaint to the Upparpet Police station to the effect that the said cash must have been stolen during the course of business of the branch, when the number of customers enter and leave the branch. Hence, it is clear that the, RW-1 has not lodged the definite and exact complaint as against I party. Further, RW-2, namely S.R. Kadam, Deputy Chief Manager (A&S) of II Party bank has deposed that, on 03.04.2004, he received information about the non-functioning of the lock of the cash cabin door and decided to look into the matter. Further, RW-2 also states that, on 03.04.2004, the I Party came to him at about 12/12.10 pm to discuss about her leave travel concession matter and RW-2 informed her to go back to the cash cabin immediately to attend to the customers and come back to him after the business hours, but, the I Party continued to sit in front of RW-2 for 10/15 minutes even, after that, to discuss about sanctioning of advance amount towards leave fare concession. Further, RW-2 also states that, a cash safe is provided in the first cash cabin of the branch to keep cash and the keys of the safe have been in the custody of the I Party, but, instead of sitting in the first cabin as per his instructions, the I Party sat in the second cabin on 03.04.2004, which has no cash safe, for reasons best known to her. Further, RW-2 states that, the I Party has carried cash from the currency chest to her cash cabin twice on 03.04.2004 in boxes which has no locking facilities even though she has been provided a cash box with locking facility. From the careful reading of the evidences of RW1 and RW2, it is clear that their evidences are not clear and definite to come to the conclusion that loss of cash, occurred, solely due to the negligence and misconduct of I party. Further, RW 2 has stated in his evidence that the I Party informed RW-2 about the shortage of cash of Rs. 7,70,000/- belatedly at about 5:40 pm, even though RW-2 has been in charge of the cash department of the Branch and that too only when he asked the I Party as to why cash is not balanced even after such long delay and thereafter cash has been physically checked which confirmed the shortage of the said amount and subsequently, voucher has been passed for Rs. 7,70,000/- towards the suspense account.

6. On a careful scrutiny of RW-1 and RW-2 evidences and the material records it is found that, they have used different and different words, i.e., first cash shortage, second cash missing, third stolen away by some customers as the branch is a heavy transaction branch, and, lastly, negligence of I party in handling cash. Only on 09.06.2004 the RW1 has alleged to the police that loss of cash occurred, due to the negligence of I Party. Further, I party has clinchingly pointed out on the date of the missing of the amount as per Ex-A3, on 3.4.2004 itself that the said cash loss is attributable to the lack of proper security provided by II party to the Head Cashier, namely I party. Further I party has clearly pointed out that, door locking of cash cabin has got defects and also not working properly and hence someone has stolen the said cash. Further the evidences of II party namely RW1 and RW2 are not cogent, natural trustworthy and clear, to prove the negligent and extremely casual natural of work done by I party which has lead to the perpetration of cash loss of Rs.7,70,000/- to the II Party, on 03.04.2004. Further, it is seen from the evidence of RW1 and RW2 that II party has casually approached the complaint made by I party regarding the defective locking system and also about the not proper functioning of cash cabin door lock. Further, it is not an after thought submission made by I party to the II party to escape from responsibility as on the date of incident, namely, on 03.04.2004 itself as per Ex-A3, the I party has stated about it, in writing. Only, on 04.04.2004. shortage of fund of Rs. 7,70,000/-, and later, missing of the said amounts and also the cash must have been stolen during the course of the business of the branch and lastly, negligence on the party of I Party, has been alleged on behalf of II party, though RW-1 and RW-2 are well educated and well experienced executives of the Nationalised Bank, and also, they are unable to pin point the misconduct committed by the I Party, as per the principles of preponderance of probability. Further, even the RW-1 has admitted that he has lodged 2 complaints with Police and the first complaint by mentioning that the amount has been found to be missing from the Bank and second complaint by mentioning that the cash has been stolen. Further, RW-1 has admitted in evidence itself that it is true to suggest that I have lodged two complaints on 04.04.2004. Further, RW-1 has admitted in his evidence that I Party complained that cash locking system has got some defect and he has asked S.R. Kadam (RW-2) to look into the I Party's grievances as regards the cash locking system and he has informed that cash locking system has got no problem. Further, RW-1 has admitted that he has lodged another complaint on 09.06.2004 with Upparpet Police alleging misappropriation of money by I Party. However RW-1, has admitted on 03.04.2004, itself at about 2 pm I Party has complained to him about the shortage of Rs. 7,70,000/- and only on 09.06.2004 RW-1 has lodged another complaint on 09.06.2004 alleging misappropriation of money by I Party. Though, RW-1 is the Assistant General Manager of the II Party Bank on 04.04.2004 he has complained to police with regard to the missing of cash and later, stolen by some customer of the Bank and only on 09.06.2004 MW1 lodged the complaint alleging misappropriation of money by the I Party. The Long delay in filing the complaint on 09.06.2004 regarding misappropriation of money by the I Party has not been sufficiently, convincingly, and adequately explained by RW-1.

7. Further, RW-1 has stated that, I Party has not made use of the cash cabin to keep the cash and RW-2 namely S.R. Kadam has admitted that the cash safe is in the 1st Cabin of the Branch to keep cash and keys in the safe custody, but instead of keeping in the 1st Cabin as per his instructions, the I Party sat in the 2nd cabin on 03.04.2004 and it has got no cash safe for the reason best known to her. Further on the careful examination of the evidences of the said of RW-1 and RW-2 it is clear that they have not taken strict, appropriate and relevant steps, so as to make the staffs, to properly follow the instructions issued by the Higher Officials. Further, RW-1 also states that, it is true to suggest that before commencing the renovation of the ground floor, during January, 2004, the cashier cabins have been situated in the ground floor. Further, RW1 has admitted that, it is also true to suggest that on 26.03.2004 the ground floor has been inaugurated after renovation and it is true that even after inauguration only colouring and painting work of office area of the branch has been done and the renovation work has been entrusted to private contractors and even on 03.04.2004, some contractors have done the work inside the branch.

8. Further, RW-2 states that, I agree with the suggestions that the cash transaction hours of the Bank with the customers would be only between 10.30 am and 1.00pm on 03.04.2004 being the Saturday. Further, RW2 has stated in the evidence that it is not true to suggest that even before 03.04.2004 pursuant to the complaint by I party about non functioning of cabin door locking system the AGM (RW1) has instructed him to attend to it and it is also true to suggest that we have security staff. Further, MW2 has stated that , it is not true to suggest that It is the negligence on his part and on the part of bank manager for the missing of the cash and not due to the negligence on the part of I party and it is true to suggest that in the year 2005 January he has been issued with the charge sheet relating to failure to carry out responsibility as an officer in relation to ATM Transaction and it is true to suggest that on that charge sheet he has been imposed the punishment of reducing one stage of increment. Further, RW-1 states that, it is true to suggest that apart from the Chief Cashier/I party, another cashier Smt. Shalini, also worked.

9. Further, RW1 has admitted that on 03.04.2004 when I party brought the cash from the cash chest to the cash cabin she has been accompanied by Sh. Hanumanthaiah, sub-staff and Sh. Kantharaj, Armed Security Guard and it is true to suggest that in para 4 of his affidavit it has been stated as follows: "she reported shortage of cash of Rs.7,70,000 at about 02.00pm" and it is true to suggest that on the same day she has also submitted a letter to him, regarding shortage of cash and he has not given any reply to the said letter to her since there is no need.

10. Further, RW-1 has submitted that he has not taken any step to body search all the persons inside the building, and the Upparpet police station have not accepted the complaint given by RW-1, as there is no mentioning of amount of the cash stolen, and only it is mentioned as cash is stolen and also he gave another complaint.

11. Further, RW1 has stated in his evidence that, it is not true to suggest that because the Insurance Company has rejected the claim, they have filed a second complaint dated 09.06.2004 to make responsible the I party for the said amount and it is true to suggest that there is an Union called bank of India Staff Union and the said Union has addressed a letter to him as per Ex.A7, dated 09.06.2004 relating to the said incident of 03.04.2004. Further, Sh. Vaidyanathan in his report also has pointed out that accordingly the culprit can be traced only during the police investigation and as per Ex A-3 on 03.04.2004, itself the I Party has intimated about the shortage of cash of Rs. 7,70,000/- to RW-1 and also about the defects in the door locking system in her cabin. Hence, it is clear that on the date of the incident namely on 03.04.2004 itself, as per Ex-A3, the I party has specifically informed to RW1 that the cash loss has occurred due to the lack of proper security provided to the Head Cashier of I party by the II party-management. Further, the II party has failed to establish that the loss of cash has occurred solely due to the negligence and misconduct of the I party and the II party has singled out and proceeded as against the I party, with out any valid and proper reasons and thus, the II party has committed the selective victimization as against the I party, for the above mentioned various reasons. Further, RW-2 has prayed for permission to pass appropriate voucher for shortage of Rs. 7,70,000/- and the same has been permitted by RW-1. Though RW-1 has stated that huge amount of II Party Bank is missing, the same has been permitted by RW-1 by issuing the voucher for the shortage but later pointed out as misappropriation committed by the I Party. The Criminal Court also, in the judgement dated 31.07.2014 in CC.17728/2004 has held that due to the defective locking system the said amount is found missing and if the I party herein has misappropriated the amount the Investigation Officer during the investigation could have recovered the same and the prosecution has failed to prove that the said amount has been misappropriated by the I party herein.

12. In the present ID NO.06/2012 by Order dated 06.02.2017 the detailed orders on the memo dated 27.10.2016 filed on behalf of II Party has been passed as follows:-

“That, the Respondent shall calculate Interim Relief amount @ Rs. 10,131/- per month payable to the Applicant/I Party from 20.01.2014 till 31.01.2017 LESS the already paid amount to the I Party and also, to pay the balance amounts within 15 days from this date and also to file the compliance memo on 16th day before this Court, and also continue to pay, in future, on or before 5th of the succeeding month and further, to file the compliance memo to this Court on 6th of the succeeding month, without fail, after serving advance copy to the I Party.” However, it is clearly pointed out on behalf of I Party that II Party has failed to follow the said order passed by this Tribunal without any valid reasons. Further, in support to said submission, the counsel for I Party has relied upon the judgment reported in (1999 (81)FLR 789) (CALCUTTA HIGH COURT) (Mr. Justice. SAMARESH BANERJEE. J) in Civil Order No.6632(W) of 1996, dated June 25, 1998, Between Debabrata Sen and State of West Bengal, wherein, it is held as follows:- “Section 11 empowers the Tribunal to regulate its own procedure. In exercise of such power, therefore, the Tribunal can certainly evolve a procedure for enforcement of an order directing payment of interim relief to the workman, the same being in the nature of an interlocutory order but for which the very object and purpose of such a welfare legislation will be frustrated. Under such circumstances when an employer violates the order of the Tribunal directing payment of interim relief by not paying of such amount, even if such order of the Tribunal has not been set aside or stayed by the higher Court, it will certainly be open to the Industrial Tribunal to enforce compliance of such order of the Tribunal by making payment of interim relief as condition precedent for the employer to participate in the adjudication proceedings before the Tribunal and to defend itself.” On that ground also it is found an appropriate award has to be passed, in the present matter also, in the best interest of Industrial Adjudication, based upon the materials on record.

13. Further, in the memo dated 18.03.2013, the details are mentioned, as follows:-

“The Government of India, Ministry of Labour has issued two orders of reference bearing Nos.

- (i) L-2012/8/2012-IR (B-II) dated 03.12.2012, registered as CR No. 50/2012, and
- (ii) L-2012/7/2012-IR (B-II) dated 06.02.2013, registered as CR No. 06/2013.

The parties to the above ID.No. 06/2012 submit that the dispute involved in the ID and two orders of references is one and the same i.e., dismissal of I Party from service without notice w.e.f 22.08.2011. Hence, the parties to the above case pray that this Court may be pleased to club CR No. 50/2012 and CR 06/2013 with ID No. 06/2012 for adjudication and disposal, in the interest of Justice and equity.” Accordingly all the three matters are clubbed together and the present award is passed. I Party in the claim statement and also in her evidence has clearly pointed out that the punishment of dismissal imposed on the I Party by the II Party is unjust, arbitrary, capricious and illegal and also discriminatory. On a careful scrutiny of the entire materials on records it is found that II Party is not justified in imposing the punishment of dismissal on I Party.

14. On a careful perusal of entire materials on record, it is seen that II Party has not proved the alleged misconduct committed by the I Party, as per the principles of preponderance of probability and also, in the judgement cited on behalf of I Party in the case of Delhi Transport Corpn. Vs D.T.C. Mazdoor Congress and Ors, (1991) Suppl. 1 SCC 600, it is clearly observed as follows:- “It is well settled in law that right to life enshrined under ART.21 of the Constitution would include right to livelihood. The order of illegal termination of the service of the I Party visits with civil consequence of jeopardizing not only livelihood but also puts an end to the career.” In the present case also, I Party in the claim statement as well as in the evidence has clearly pointed out that, she has got no other source of income after the dismissal and it has jeopardized not only her livelihood but also her family members. Now the next question is while ordering reinstatement, what is the relief to be granted to reinstated workmen/I Party? Awarding of reinstatement does not amount to automatic conferment of back wages as held in 2009 (4) LLJ 667 (SC) Malla C.N. Vs State of Jammu and Kashmir & others. Awarding of back wages, depend upon other factors and circumstances. The I Party has pointed out in the claim statement that the I Party has been thrown out of employment and is facing hardship. In the affidavit also, the I Party has stated that with no financial income she is facing great hardship to take care of herself and her family. However, the claim of the workman that she is entitled for the full back wages, cannot be considered, having regard to fact that on 05.04.2004 itself, the I party has been suspended and the I Party has not materially served with the II party for several years. Further, in the memo dated 24.09.2010 the Deputy Zonal manager has written to I party herein by stating that I party has been placed under suspension in terms of order bearing, reference No.BGL:CM:DA:1, dated 05.04.2004 and also, in order to balance the interest of both the parties, this Court is of the considered opinion that in the facts and situation of the present case, 50% back wages only can be granted to the I Party. Having regard to the facts and circumstances, and long gap from the said date of suspension and dismissal to till date, it is seen that granting of 50% back wages would be adequate.

15. Further, It is well settled by the catena of decisions that labour laws being beneficial pieces of legislation are to be interpreted in favour of the beneficiaries in case of doubts. The II Party cannot make submission in an aprobate or reprobate manner. It is obligatory on the part of the tribunal to consider the entire materials on record and to give a finding on several contentions urged by both the parties. The Tribunal has to discharge its statutory function in terms of the Industrial Dispute Act, based upon the facts and circumstances of the present case only. Further, it is also evident, from the close reading of the facts and situations mentioned above, that the I Party is not entitled to get the full reliefs, as prayed for in the claim statement. Further, I party has stated that she has been disqualified from seeking employment and she is facing great hardship and her livelihood is arbitrarily taken away due to the said illegal dismissal, and she is not gainfully employed. Further, the I Party has clearly pointed out in the claim statement that she has got no source of income and because of the dismissal from service by the II Party, the I Party is undergoing, the financial hardship. At the same time it is seen that from the date of suspension on 05.04.2004, to till date for several years the I Party has not materially served with the II Party. In the light of the above mentioned facts and situations, this Court is awarding 50% back wages from the date of order of dismissal, on the careful appreciation of the submissions made in the statements, and also, the oral and documentary evidences adduced by both the Parties and I Party is ordered to be reinstated with the benefit of continuity of service and other consequential benefits that she would have received in the absence of the impugned penalty of removal from service, but with 50% of back wages. However, the workman/I Party is entitled for continuity of service for the other purposes. For the above mentioned facts and circumstances and situation, it is found that the I Party/Workman is entitled for re-instatement, with benefit of continuity of service and other consequential benefits that she would have received, in the absence of the impugned penalty of removal from service, but with back wages of 50%, for the above mentioned peculiar reasons. There shall be continuity of service.

Accordingly, this point is answered. Hence, the following Award is passed:-

AWARD

The II Party/Management is not justified in Dismissing the service of I party/ Jayashrivani k with effect from 22.08.2011 and II Party is directed to reinstate the I Party with continuity of service, and other consequential benefits, that she would have received, in the absence impunged penalty of dismissal from service, but with 50% back wages and the present reference is answered in favour of I party, without cost for the above mentioned peculiar facts and circumstances. Further, the secretary to court is instructed to place one true copy of the present award each to the files of CR No's 50/2012 and 06/2013, for proper and better understanding of the present matter.

(Dictated, transcribed, corrected and signed by me on 09th May, 2017)

V. S. RAVI, Presiding Officer

List of Witness on the side of I Party:

AW 1	Sh. Jayashrivani, I Party/ workwoman
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List of Witness on the side of II Party:

RW 1	Sh. Ashutosh Kumar Mishra, Assistant General Manager/II Party
RW 2	Sh. S.R. Kadam, Deputy Chief Manager (A&S)/II Party

Exhibit marked on behalf of I Party:

Exhibits	Date	Description of Document
Ex A-1	26.05.2011	Findings of Departmental Enquiry
Ex A-2	-	Details of Custody of cash: Dual Control
Ex A-3	03.04.2004	Cash shortage report by I Party
Ex A-4	05.04.2004	Inter Office Memorandum
Ex A-5	-	Statement of MW2 to Police
Ex A-6	10.04.2004	Internal Investigation report
Ex A-7	29.06.2004	Letter to AGM from BOI Staff Union

Exhibit marked on behalf of II Party:

Exhibits	Date	Description of Document
Ex R-1	-	Attendance Register Extract
Ex R-2	02.04.2004	DCB Copy
Ex R-3	03.04.2004	DCB Copy
Ex R-4	03.04.2004	MTR Dump Record copy
Ex R-5	03.04.2004	Cash Transaction vouchers copy
Ex R-6	-	Delivery Note Book copy
Ex R-7	-	Cash Movement Register copy
Ex R-8	04.04.2004	Police Complaint lodged by AGM
Ex R-9	09.06.2004	Police Complaint lodged by AGM
Ex R-10	09.06.2004	Panchanama/Mahazer Report

नई दिल्ली, 29 मई, 2017

का.आ. 1357.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार प्रबंधक, रिलायंस नेक्स्ट लिंक प्राइवेट लिमिटेड, जयपुर एवं उनके कर्मचारी के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जयपुर के पंचाट (संदर्भ सं. 85/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 03.05.2017 को प्राप्त हुआ था।

[सं. एल-40012/34/2012-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 29th May, 2017

S.O. 1357.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID Case No. 85/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the Manager, Reliance Next Link Private Limited, Jaipur and their workman, which was received by the Central Government on 03.05.2017.

[No. L-40012/34/2012-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JAIPUR

BHARAT PANDEY, Presiding Officer

I.D. 85/2012

Reference No.L-40012/34/2012-IR(DU) dated: 9.10.2012

Shri Jitendra Singh Hada
S/o Devendra Singh Hada
C/o Joint Secretary, Hind Mazdoor Sabha,
Bangali Colony, cantt.,
Kota (Rajasthan).

V/s

The Manager
Reliance Next Link Private Limited
D-69, Sardar Patel marg, C Scheme,
Jaipur

Present :

For the applicant : Sh. N.K.Songara, Adv.
For the non-applicant : Sh. Sanjay Srivastava, Adv.

AWARD

23.3.2017

1. The Central Government in exercise of the powers conferred under clause (d) of Sub Section 1 & 2(A) of Section 10 of the Industrial Disputes Act 1947 has referred the following Industrial dispute to this tribunal for adjudication vide order dated 9.12.2004 which reads as under:-

“Does the applicant Shri Jitendra Singh Hada S/o Sh. Devendra Singh working as Field Engineering Officer come under the definition of ‘workman’ under Industrial Disputes Act, 1947, Rule 2(S). If so, action of management of Reliance Nextlink Pvt. Ltd in terminating his services w.e.f. 21.06.2010 is legal and justified? If not, what relief shri Jitendra Singh Hada is entitled to and from which date?”

2. According to the brief facts of the case as mentioned in statement of claim petitioner Sh. Jitendra Singh Hada was employed on 4.4.2005 on the post of Consultant Field Engineering Officer & posted at Udaipur. Thereafter, vide letter dated 28.9.2005 his term of employment was extended for one year. Further, vide letter dated 1.4.2008 he was made permanent in the service. Both the letters dated 28.9.2005 & 1.4.2008 have been annexed as Annex-1 & 2 respectively.

3. The work of the petitioner according to statement of claim was maintenance of Mobile Towers installed at different places for telecommunication & fiber maintenance. Petitioner was alone required to perform all these works & he is a workman within the meaning of section 2(s) of I.D.Act, 1947. He had no authority for appointment, removal or initiation of any disciplinary proceeding against any employee of the company. It has been further alleged that name of his post is an officer but it is nominal & nature of his work is technical. He had no managerial control or administrative power over other persons working in the unit.

4. In the month of Sep., 2007 petitioner was transferred from Udaipur to Kota & gave his attendance before the Area Manager, Kota. It has been further alleged in para 5 of statement of claim that suddenly vide letter dated 21.6.2010 (Annex-3) services of the petitioner was terminated by respondent. Monthly salary of the petitioner was

deposited by the employer in ICICI Bank, Kota in account no. 018401003382. A sum of Rs.13022/- was deposited in his above mentioned account by opposite party as salary for the month of May, 2010. Extract of the account relating to salary of the May, 2010 has been annexed as Annex-4 in statement of claim. It has been further alleged that work of the applicant was not of supervisory nature & he enjoyed sound integrity. There was no communication from the respondent that petitioner should have improvement in his work.

5. It has been alleged in para 8 that service of the applicant was terminated on the basis of charge but no charge sheet was served upon him before termination. Alleged charge against him is vague & no explanation was called from him & no opportunity of defence was given. Domestic enquiry was not conducted & rules of natural justice were violated hence, termination is illegal. According to applicant his termination is retrenchment within the meaning of section 2(o) of I.D.Act, 1947 in violation of section 25-F of the Act. Before termination of his service neither one month's notice nor in lieu of notice one month's pay was given to petitioner beside non-payment of retrenchment compensation for the period of service from 4.4.2005 to 21.6.2010. It has also been alleged that prior to termination of service, seniority list was not published under rule 77 of Industrial Dispute (Central) Rule, 1957. The petitioner has further alleged violation of section 25-G & H of I.D.Act, 1947 & Rule, 78 of Industrial Dispute (Central) Rule, 1957. Regarding violation of section 25-G it has been alleged that junior worker to the petitioner namely, Sh. Madanlal, Sh. Vedprakash & Sh. R.K.Yadav were retained in service at the time of termination of the petitioner & they are still continuing in service violating the rule of 'last come first go'. It has been further alleged that after termination of the service of the petitioner many workers have been engaged without giving opportunity of re-employment to the petitioner. Thus, the act of the opposite party amounts to unfair labour practice. It has been prayed that termination order dated 21.6.2010 (Annex-3) be declared illegal & set aside reinstating the petitioner in the service with continuity & all consequential benefits.

6. Reply to statement of claim has been submitted in two parts consisting of preliminary objection & parawise reply to statement of claim. In parawise reply para 1 to 5, & 7 to 13 have been denied on the basis of misconstruction, incorrectness, falsehood, fabrication & irrelevancy. Para 6 of the statement of claim has been admitted that a sum of Rs.13022/- has been deposited in the account of the petitioner. In additional reply it has been alleged that applicant is not a workman within the meaning of section 2(s) of I.D.Act wherein upto Rs.10,000/- wage is the prescribed limit for a 'workman'.

7. It has been alleged that applicant was engaged as Officer Trainee for short term purpose for a period of three months under term & conditions mentioned in contract letter dated 28.3.2005 at Udaipur but his performance was not found satisfactory hence, his contract was extended further for a period of one year upon evaluation & recommendation of his concerned reporting manager. In view of new venture requirement applicant was further engaged for fixed period of 12 months as retainer consultant on acquiescence vide letter dated 28.9.2005. His performance was not satisfactory & he had been given many opportunity for improvement. In para 3 of the reply it has been alleged that it is apparently corroborated by record of the applicant that he was an ex-airman & qualified supervisor in Indian Air Force engaged by non-applicant with intention to take benefit of his experience & expertise in new telecom venture & train subordinate staff & co-employee working together or under the control. The applicant is a qualified person with multi technical qualification & had served 20 years in prestigious defence service in the field of installation, maintenance & fault rectification of electrical system of diesel power plant, DG control panel, feeder panel synchronizing panel, AMF panel, Air Field lighting system, Arrestors barrier and constant current regulators etc. The petitioner was deployed for supervising the work of operation & maintenance utilities & optic fiber survey hence, he does not fall within the definition of 'workman' as defined under section 2(s) of I.D.Act, 1947. Beside the work of supervisory nature remuneration of the applicant at the time of termination was also beyond the prescribed limit of Rs.10,000/- as given under section 2(s).

8. The applicant was placed initially at Udaipur & moved to various locations as per requirement under the instructions of the then reporting manager & finally placed at Sirohi w.e.f. 6.10.2008 vide order dated 1.10.2008 but applicant failed to go to Sirohi & continuously stayed at Kota on the pretext of various personal & family reasons however, opposite party being employee friendly & liberal employer holistically consider the applicant request on humanitarian ground & allowed the applicant petitioner to serve from Kota MCN(Media Conversion Node Office) unacquainted with ulterior motive of the applicant.

9. Further, against para 5 it has been alleged that it is false & incorrect to say that services of the applicant was terminated suddenly. It has been alleged that the fact is that management of the company placed a monitoring mechanism to monitor the efficiency of network machinery & consumption of fuel for efficient maintenance of services with intention to optimize the utilisation & minimise the losses or misuse of valuable fuel resource to control the revenue incurrence. During monitoring various irregularities were observed while scrutiny of diesel filling log book records maintained under supervision of the petitioner. A fact finding enquiry conducted against the applicant revealed the dishonest misappropriation of company property hence, services of the petitioner was terminated vide letter of termination dated 21.6.2010 on the ground of serious misconduct & doubtful integrity considered to be detrimental to

the interest of the business of the company. Action of termination of service was taken according to clause 13 of term & conditions of the employment. Against para 6 of statement of claim it has been alleged that applicant is not covered under definition of workman under section 2(s) of the I.D.Act as he has himself admitted that he received monthly salary more than Rs.10000/- which is beyond the ceiling provided under section 2(s) of the I.D.Act.

10. It has been further alleged that performance of the petitioner was not so good since the beginning & he was issued letters regarding improvement of performance besides the extension of training contract due to unsatisfactory performance initially. He was also found involved into misappropriation of company property hence, his services were terminated. It has been further alleged against para 8 of statement of claim that regarding maintenance of diesel log book clarification was sought from the petitioner but he refused to elucidate hence, a fact finding enquiry was conducted by the then HR team which exposed the alleged involvement of the applicant in misappropriation of hefty quantity of diesel provided by company for diesel generator sets & petitioner dishonestly made false entries into log book to reconcile the stock with consumption. Termination of services of the petitioner was under clause 13 of the term & condition of employment as a major of disciplinary action against him. There was sufficient material & documents available on records to consider the termination of the applicant from the service as punishment. Applicant was afforded sufficient & full opportunity to defend his case. The termination order of the applicant is legal & justified & issued in the light of the finding & recommendation of the fact finding committee.

11. It has been prayed that in view of the preliminary objections application under industrial dispute is not maintainable & applicant is not entitled to any relief as prayed.

12. In preliminary objection it has been alleged that the Central Government is not the 'Appropriate Government' under section 2(a) of the I.D.Act, 1947 & non-applicant is neither the 'Industry' carried on by or under the authority of Central Government nor concerning any such controlled industry as may be specified by Central Government. It has also been alleged that petitioner is not a workman within the meaning of section 2(s) of I.D.Act, 1947 because he was appointed in supervisory cadre. Various decisions of Hon'ble Supreme Court have been cited in para 4 of preliminary objection to rely on the above contention about section 2(s). It has been further alleged that applicant has suppressed a material fact that he is an ex junior commissioned officer who has worked on the post of Junior Warrant Officer as qualified supervisor. The petitioner is also a pensioner from Indian Air Force. The applicant has also suppressed the fact that he was dishonestly involved in irregularities connected with consumption of diesel. It is also wrong that any appropriate enquiry was not conducted by non-applicant & petitioner was not provided with opportunity to represent his case in violation of principle of natural justice hence, application of the petitioner is not maintainable & liable to be dismissed.

13. On 5.5.2014 reply to statement of claim was filed. Copy of reply & documents filed by non-applicant was given to petitioner & next date 15.9.2014 was fixed for filing rejoinder & documents by applicant. From 15.9.2014 till 28.2.2017 continuously 14 opportunities were given to the applicant but rejoinder & documents were not filed by the petitioner. On above mentioned 14 dates applicant was absent on many dates & due to lack of interest of the applicant to pursue his case further opportunity of filing rejoinder & documents was closed on 28.2.2017. On 28.2.2017 next date 22.3.2017 was fixed for filing affidavit of the applicant in evidence in support of statement of claim.

14. On 28.2.2017 & on 22.3.2017 applicant was absent & learned representative of the opposite party was present. It was objected by learned representative of the non-applicant that since 15.9.2014 applicant is getting opportunities to take step for further proceeding in the case but he does not appear to participate in the case & yet needless opportunities are given by tribunal to the applicant hence, no further opportunity should be given. Accordingly opportunity of evidence to the applicant was closed due to his continuous absence & lack of participation towards advancement of the case. Learned representative of the non-applicant alleged that in absence of evidence of the applicant opposite party is not required to produce evidence, hence, opportunity of evidence to opposite party was also closed.

15. I heard the argument of learned representative of non-applicant & perused the record. None appeared on behalf of petitioner for argument.

16. It has been argued by learned representative of non-applicant that more than required opportunities have been provided to the applicant for filing rejoinder, documents & evidences but no step has been taken by applicant hence, in absence of evidence the application of the petitioner is liable to be dismissed.

17. From perusal of order-sheet from 15.9.2014 till 22.3.2017 it is evident that from 9.2.2015 till 22.3.2017 none has appeared for & on behalf of applicant to participate in the case. On 15.9.2014 both the parties have remained absent & next date 27.11.2014 has been fixed for rejoinder & document.

18. On 27.11.2014 learned representative of the applicant has been present & opposite party has been absent. Learned representative of the applicant has orally requested for opportunity for filing rejoinder & document which has been allowed fixing 9.2.2015 for filing rejoinder & document. From 9.2.2015 till 23.2.2017 neither applicant nor his learned representative has come in appearance to participate in the case. In above fact & circumstances, it is clearly

evident that applicant has not been interested in taking active participation for further advancement of the case. In absence of evidence adduced by the applicant I am of the view that applicant has failed to prove that as Field Engineering Officer he comes under the definition of workman under Section 2(s) of Industrial Disputes Act, 1947. He has further failed to prove that action of the management of Reliance Next Link Pvt. Ltd. in terminating his services w.e.f. 21.6.2010 is illegal & unjustified. Applicant Sh. Jitendra Singh Hada S/o Sh. Devendra Singh is not entitled to any relief from any date. Application of the petitioner Sh. Jitendra Singh Hada is dismissed accordingly.

19. Award as above.

BHARAT PANDEY, Presiding Officer

नई दिल्ली, 29 मई, 2017

का.आ. 1358.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार निदेशक, राष्ट्रीय बीज निगम लिमिटेड, सूरतगढ़ एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर के पंचाट (संदर्भ सं. 77/2015) को प्रकाशित करती है जो केन्द्रीय सरकार का 04.01.2017 को प्राप्त हुआ था।

[सं. एल-42012/144/2015-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 29th May, 2017

S.O. 1358.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID Case No. 77/2015) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the Director, National Seeds Corporation Limited, Suratgarh and their workman, which was received by the Central Government on 04.01.2017.

[No. L-42012/144/2015-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JAIPUR

BHARAT PANDEY, Presiding Officer

I.D. 77/2015

Reference No. L-42012/144/2015-IR(DU) dated: 1.9.2015

Shri Vinay Kumar Upadhyay & 304 others
C/o Central State Farm
Farm Colony, Suratgarh,
Sri Ganganagar-335804

V/S

1. The Chairman-cum-Managing Director
National Seeds Corporation Limited,
Pusa Road, Pusa Bhawan,
New Delhi – 110012.
2. The Director
National Seeds Corporation Limited,
Suratgarh,
Sri Ganganagar-335804

AWARD

30.11.2016

1. The Central Government in exercise of the powers conferred under clause (d) of Sub-Section 1 & 2 (A) of Section 10 of the Industrial Disputes Act 1947 has referred the following Industrial dispute to this tribunal for adjudication:-

“क्या निदेशक, राष्ट्रीय बीज निगम लि., सूरतगढ़ जिला श्री गंगानगर का कर्मकार श्री विनय कुमार उपाध्याय एवं 304 अन्य, दैनिक भोगी कामगार (कामगारों की प्रमाणित लिस्ट प्रबंधन के जवाब दिनांक 9.6.2015 के साथ संलग्न है) को सेवा में नियमित ना किया जाना न्यायोचित एवं न्यायसंगत है? यदि नहीं तो कर्मकार किस अनुतोष को पाने का अधिकारी हैं?”

2. After receipt of reference notices were sent to both the parties fixing 25.1.2016 for filing statement of claim. On 25.1.2016 Sh. Manoj Kumar Singh & Sh. Ratan Sahni were present on behalf of applicant & learned advocate Sh. Pradeep Singh were present on behalf of opposite party. Sh. S.K.Sinha, Manager (legal) was also present on behalf of opposite party. Request was made for applicant side to grant time for filing statement of claim which was allowed & 7.4.2016 next date was fixed for filing statement of claim by applicant. Acknowledgement relating to notice against applicant & opposite party, Chairman-Cum-Managing Director, National Seed Corporation Limited, is available on record.

3. On 7.4.2016 neither anyone appeared on behalf of applicant nor statement of claim was filed. Learned representative on behalf of opposite party appeared & filed authority for opposite party. Case was adjourned by tribunal on its own motion fixing 30.5.2016 for filing statement of claim by applicant. On 30.5.2016 also neither anyone appeared on behalf of applicant nor statement of claim was filed. Learned representative for opposite party appeared & case was adjourned in the interest of justice providing further opportunity to the applicant for filing statement of claim. Accordingly, 29.6.2016 was next date fixed.

4. On 29.6.2016 Sh. Mahendra Kumar Singh on behalf of applicant & Sh. Yash Kumar Singh, Advocate on behalf of opposite party came in appearance but statement of claim was not filed. Case was adjourned on request from applicant side providing further opportunity to file statement of claim on 1.8.2016. On 1.8.2016 & next date 10.10.2016 none appeared on behalf of applicant & statement of claim was not filed. Learned representative on behalf of opposite party appeared on both the dates. Presiding Officer was on leave on both the dates. On 10.10.2016 next date 22.11.2016 was fixed for filing statement of claim.

5. On 22.11.2016 also neither anyone appeared on behalf of applicant nor statement of claim was filed. Learned representative on behalf of opposite party came in appearance & objected to the repeated opportunities extended to the applicant for filing statement of claim. He further alleged that applicant side is aware about pendency of this case & they do not appear to be interested in filing statement of claim because if they would have been interested then statement of claim must have been filed by now. In spite of above submission case was adjourned by tribunal & next date 29.11.2016 was fixed extending last opportunity to the applicant for filing statement of claim with observation that in absence of filing of claim further proceeding will be adopted for disposal of the alleged reference under adjudication.

6. On 29.11.2016 also neither anyone appeared nor statement of claim was filed on behalf of applicant. Learned representative for opposite party came in appearance who objected with allegation that owing to extension of opportunity to the applicant opposite party is placed under obligation to make appearance before the tribunal on every fixed dates. Accordingly, further opportunity to the applicant for filing statement of claim was closed & the case was reserved for award.

7. It is pertinent to note that vide Labour Ministry's order dated 1.9.2015 applicants were directed to file statement of claim with complete relevant documents & list of witnesses with the tribunal within 15 days from the receipt of above order of reference forwarding the copy of statement of claim to each of the opposite parties involved in this dispute but applicants failed to file statement of claim in compliance of that order also. In above fact & circumstances, it is clear that beside the order of the Labour Ministry, notices sent by tribunal also have failed to initiate the applicants for submitting the statement of claim.

8. Applicants have neither filed statement of claim on the direction of Ministry nor on receipt of notice sent by the tribunal. It appears that applicants are not interested & willing in submitting the claim for adjudication. In the above circumstances & in the absence of material brought on record it is not possible to adjudicate the reference under adjudication, therefore, “No Claim Award” is passed in this matter. The reference under adjudication is answered accordingly.

9. Award as above.

BHARAT PANDEY, Presiding Officer

नई दिल्ली, 29 मई, 2017

का.आ. 1359.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार साइट/निदेशक, राजस्थान परमाणु ऊर्जा स्टेशन, कोटा, राजस्थान एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के

बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर के पंचाट (संदर्भ सं. 65/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 31.03.2017 को प्राप्त हुआ था।

[सं. एल-42011/36/2014-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 29th May, 2017

S.O. 1359.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID Case No. 65/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the Site/Director, Rajasthan Atomic Power Station, Kota, Rajasthan and their workman, which was received by the Central Government on 31.03.2017.

[No. L-42011/36/2014-IR (DU)]

RAJENDRA JOSHI, Dy. Director

अनुबंध

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर

सी.जी.आई.टी. प्रकरण सं. 65/2014

भरत पाण्डेय, पीठासीन अधिकारी

रेफरेन्स नं. L-42011/36/2014-IR (DU) दिनांक 11.08.2014

The General Secretary,
Parmanu Vidyut Kamachari Union (CITU)
(CITU) Union Office, Phase-2,
Rawatbhata (Kota)-323307,

v/s

The Site /Director,
Rajasthan Atomic Power Station,
Rawatbhata, PO Anushakti
Kota-(Rajasthan) 323303,

प्रार्थी की तरफ से : श्री जगदीश चन्द्र गुप्ता – एडवोकेट

अप्रार्थी की तरफ से : श्री धर्मेन्द्र जैन – एडवोकेट

: पंचाट :

दिनांक : 20.02.2017

1. केन्द्रीय सरकार द्वारा औद्योगिक विवाद अधिनियम 1947 की धारा 10 उपधारा 1 खण्ड (घ) के अन्तर्गत दिनांक 11.08.2014 के आदेश से प्रेषित विवाद के आधार पर यह प्रकरण न्यायनिर्णयन हेतु संस्थित है। केन्द्रीय सरकार द्वारा प्रेषित विवाद निम्नवत् है :-

“क्या परमाणु विद्युत कर्मचारी यूनियन, रावतभाटा (राजस्थान) की स्थल निदेशक, राजस्थान परमाणु बिजलीघर, आर.ए.पी.पी. (आर. आर.साइट) की रावतभाटा से श्री हीरालाल शर्मा, वार्ड-बॉय को डेंटल टैक्नीशियन के पद पर पदोन्नति की मांग न्यायोचित एवं तर्कसंगत है? यदि हां तो श्री हीरालाल शर्मा, वार्ड-बॉय किस राहत के एवं कब से अधिकारी है?”

2. स्टेटमेन्ट ऑफ क्लेम में दिये गये तथ्य के अनुसार प्रस्तरवार प्रार्थी यूनियन का कथन है कि :-

1. यूनियन इस प्रकरण से सम्बन्धित श्रमिक का प्रतिनिधित्व करती है एवं क्लेम प्रस्तुति हेतु अधिकृत है।
2. विपक्षी नियोजक संस्थान, न्युकलीयर पॉवर कारपोरेशन लिमिटेड की एक इकाई है। न्युकलीयर पॉवर कारपोरेशन, परमाणु उर्जा विभाग, भारत सरकार का उपक्रम है तथा भारत के संविधान के अनुच्छेद 12 के अन्तर्गत “राज्य” की परिभाषा में आता है।
3. श्रमिक हीरा लाल शर्मा की प्रारम्भिक नियुक्ति विपक्षी नियोजक संस्थान द्वारा संचालित अस्पताल में पत्र संख्या 318 दिनांक 15.5.1993 के द्वारा वार्ड-बॉय के पद पर नियत अवधि हेतु 750 रुपये प्रतिमाह के समेकित वेतन पर की गई थी तथा श्रमिक दिनांक 23.5.1994 तक कार्यरत रहा।

4. श्रमिक की विपक्षी नियोजक संस्थान में नियमित नियुक्ति दिनांक 2.1.95 से वार्ड-बॉय 'ए' के पद पर की गई। श्रमिक को दिनांक 1.5.2002 से वार्ड-बॉय, हैल्पर बी-सी के पद पर पदोन्नति दी गई एवं इसी क्रम में श्रमिक को दिनांक 1.5.07 से हैल्पर 'डी' के पद पर पदोन्नति दी गई तथा अस्पताल कार्य सहायक बी के रूप में पदस्थापित किया गया।
5. श्रमिक हीरा लाल शर्मा एक परिश्रमी और उद्यमशील श्रमिक है अतः श्रमिक को उसके उत्कृष्ट कार्य, व्यवहार एवं वरिष्ठता के आधार पर सभी पदोन्नतियां दी गई। श्रमिक अपने कार्य में ज्ञानवर्धन व कार्य क्षमता में बढ़ोतरी हेतु प्रयासरत रहता है। श्रमिक द्वारा स्वाध्याय से वर्ष 2010-2011 में अखिल भारतीय टैक्नोमेडिकल्स संस्थान, गाजियाबाद द्वारा आयोजित 'डैन्टल टैक्नीशियन' परीक्षा उत्तीर्ण की गई। इस परीक्षा हेतु श्रमिक द्वारा विपक्षी नियोजक संस्थान से पूर्वानुमति ली गई। श्रमिक द्वारा स्वाध्याय व उद्यम से अर्जित तकनीकी योग्यता प्राप्त करने की सूचना विपक्षी नियोजक संस्थान को दी गई।
6. विपक्षी नियोजक संस्थान के अस्पताल की दन्त चिकित्सा इकाई में 'डैन्टल टैक्नीशियन' पद रिक्त है। वर्ष 2012 में श्रमिक अपनी कार्य क्षमता एवं वरिष्ठता के आधार पर पदोन्नती का पात्र था। श्रमिक को आशा थी कि उसे उसकी योग्यता के आधार पर 'डैन्टल टैक्नीशियन' के पद पर पहले से ही रिक्त स्थान पर पदोन्नति दी जायेगी किन्तु श्रमिक को पदोन्नति दिनांक 1.7.12 से अस्पताल कार्य सहायक के पद पर ही दी गई जबकि वह 'डैन्टल टैक्नीशियन' पद पर पदस्थापन का पात्र है।
7. प्रार्थी यूनियन द्वारा इस सम्बन्ध में मांग किये जाने पर विपक्षी नियोजक संस्थान द्वारा यह कहा गया कि श्रमिक को परीक्षा हेतु अनुमति देने के साथ ही यह स्पष्ट कर दिया गया था कि अर्जित की गई योग्यता के आधार पर उन्हें पदोन्नति लाभों का दावा करने का कोई भी अधिकार नहीं होगा किन्तु साथ ही यह भी स्वीकार किया गया कि विपक्षी नियोजक संस्थान के पदोन्नति प्रतिमानों में वार्ड-बॉय से 'डैन्टल टैक्नीशियन' के पद पर पदोन्नति का कोई प्रावधान नहीं था किन्तु अब मुख्यालय द्वारा इस सम्बन्ध में जारी आदेश दिनांक 24.6.13 पर विचार किया जा रहा है जिसके अनुसार अस्पताल कार्य सहायक पद पर कार्यरत श्रमिकगण को टैक्नीशियन श्रेणी में पदोन्नति दिये जाने हेतु आवश्यक प्रक्रिया प्रारम्भ किये जाने के निर्देश दिये गये हैं।

यहाँ पर यह भी उल्लेख किया जाना प्रासंगिक है कि आदेश दिनांक 24.6.13 को इस टिप्पणी के साथ जारी किया गया है कि अस्पताल के कार्य सहायकों हेतु बहु आयामी निपुणता के विकास और पुनर्नियोजन सम्बन्धी दिशा निर्देशों में कोई प्रावधान नहीं था, जबकि अन्य सहायक श्रेणियों हेतु उपयुक्त प्रावधान अस्तित्व में था। इन सभी आयामों पर विचार कर सक्षम प्राधिकारी द्वारा अस्पताल कार्य सहायकों को भी प्रशिक्षण योजना सम्बन्धी दिशा निर्देश दिनांक 17.6.11 के अनुसार पदोन्नति पर सोच-विचार कर अवसर प्रदान करने हेतु संस्वीकृति प्रदान की गई है। इससे स्पष्ट है कि सक्षम प्राधिकारी द्वारा अस्पताल कार्य सहायकों हेतु कोई प्रशिक्षण/ पदोन्नति योजना न होने की कमी की गम्भीरता को अनुभव किया गया और उसे दूर करने हेतु आदेश जारी किये गये।

8. उपरोक्त प्रस्तर 7 में वर्णित तथ्यों से स्पष्ट है कि अस्पताल कार्य सहायकों को पूर्व में प्रचलित प्रशिक्षण योजना सम्बन्धी दिशा निर्देशों के लाभों से वंचित रखे जाने की स्थिति को उचित और न्यायपूर्ण नहीं पाया गया और उन्हें भी इस योजना का लाभ दिये जाने हेतु आदेश जारी किये गये जिन पर विचार किया जा रहा है। इससे स्पष्ट है कि अस्पताल कार्य सहायकों को भी बहु आयामी निपुणता के विकास और पुनर्नियोजन/ पदोन्नति का अवसर प्रदान किया जाना समुचित पाया गया।

प्रार्थी यूनियन द्वारा की गई मांग भी तथ्यात्मक रूप से सक्षम प्राधिकारी द्वारा जारी आदेशों पर विचार किये जाने का अनुरोध है। रिक्त स्थानों पर उपयुक्त तकनीकी योग्यता प्राप्त अस्पताल में कार्यरत कार्य सहायकों को पदोन्नती के अवसर दिये जाने पर सोच-विचार किया जाना न केवल सम्बन्धित कर्मचारियों के लिए हितकारी है अपितु संस्थान के विकास हेतु भी महत्वपूर्ण है। श्रमिक हीरा लाल शर्मा भी ऐसे अवसर पाने का पात्र है। अनुभवी और तकनीकी योग्यता प्राप्त श्रमिकों की क्षमताओं का उपयोग न केवल अस्पताल की कार्य क्षमता बढ़ाने में उपयोगी होगा अपितु अस्पताल के लाभार्थियों के लिए भी हितकर होगा।

9. यहां उल्लेख किया जाना भी उपयुक्त है कि आधुनिक प्रबन्धन की विकास अवधारणाओं के अनुसार कर्मचारियों को प्रगति/विकास के अवसर दिये जाने आवश्यक है तथा उन्हें ज्ञानवर्धन व कार्य क्षमता में बढ़ोतरी हेतु प्रेरित किया जाना भी महत्वपूर्ण है।

इन्ही अवधारणाओं के अनुरूप यह भी स्थापना है कि पदोन्नति हेतु सोच विचार (Consideration) के अवसर प्रदान किया जाना 'राज्य' सेवा में कार्यरत श्रमिकों का मूल अधिकार है। संविधान के अनुच्छेद 16(1) में वर्णित 'नियोजन' शब्द में पदोन्नति सम्बन्धि अवधारणा भी अन्तर्निहित है। समान अवसर का इस सन्दर्भ में अर्थ है कि जो भी कर्मचारी पदोन्नति का पात्र है और सोच विचार के परिमण्डल (Zone of consideration) में आता है उसे पदोन्नति हेतु सोच विचार का अवसर पाने का मूल अधिकार है। यदि ऐसा अवसर पदोन्नति हेतु नहीं दिया जाता है तो यह निश्चित ही उसके मूल अधिकार का उल्लंघन है।

स्पष्ट है कि श्रमिक हीरा लाल शर्मा को पदोन्नति हेतु सोच विचार का अवसर ही प्रदान नहीं किया गया। अतः विपक्षी नियोजक की यह कार्यवाही संविधान के अनुच्छेद 16(1) के अन्तर्गत प्राप्त मूल अधिकार का उल्लंघन है और निरस्त किये जाने योग्य है।

10. विपक्षी नियोजक संस्थान के बहु आयामी निपुणता के विकास और पुनर्नियोजन संबंधी दिशा निर्देशों में अस्पताल के कार्य सहायकों के संबंध में प्रावधान नहीं किया जाना जबकि अन्य सहायक श्रेणियों हेतु उपयुक्त प्रावधान किये गये थे, अस्पताल के कार्य सहायकों जिसमें श्रमिक हीरा लाल शर्मा भी सम्मिलित है, के साथ भेदभावपूर्ण और मनमानीपूर्ण व्यवहार है जो कि संविधान के अनुच्छेद 14 व 16 के अन्तर्गत प्राप्त विधि के समक्ष समानता, विधिक प्रावधानों से प्राप्त संरक्षण और राज्य सेवा में सभी नागरिकों को प्राप्त अवसरों की समानता के मूल अधिकार का उल्लंघन है तथा निरस्त किये जाने योग्य है। अन्त में प्रार्थना की गयी है कि श्री हीरालाल शर्मा, वार्ड-बॉय को डैन्टल टैक्नीशियन के पद पर दिनांक 1.7.12 से पदोन्नति एवं पदोन्नति के परिणामी लाभ प्रदान करने का आदेश प्रदान किया जाये।

3. वादोत्तर में याचिका के प्रस्तर 1 ता 5 के कथन को स्वीकार किया गया है। प्रस्तर 6 ता 10 के कथन को अस्वीकार किया गया है। अतिरिक्त कथन में कहा गया है कि प्रार्थी की नियुक्ति वार्ड-बॉय के पद पर की गयी थी जिसे नियमानुसार सहायक "बी" के पद पर पदोन्नति दी गयी। प्रार्थी सन् 2012 में नियमानुसार नियुक्ति हेतु पात्र नहीं था परन्तु उसके बाद अस्पताल में कार्यरत सहायक कर्मचारियों को ट्रेनिंग किये जाने के आधार पर उनका ट्रेक बदलने की योजना लागू की गयी। इस योजना के अनुसार प्रार्थी की स्क्रीनिंग करने के बाद उसे प्रशिक्षण दिया गया। इस प्रशिक्षण को सफलतापूर्वक प्रार्थी द्वारा पूरा करने के बाद आदेश दिनांक 30.6.15 द्वारा उसे टेक्नीशियन 'बी' Theater Assistant के पद पर नियुक्ति दी गयी जिसे प्रार्थी ने बिना विरोध स्वीकार कर लिया है। आगे यह कहा गया है कि विधि का यह सुस्थापित सिद्धान्त है कि केवल पद रिक्त होने तथा कर्मचारी के पास योग्यता होने के आधार पर उसे पदोन्नति नहीं दी जा सकती।

4. आगे कथन है कि यूनियन की मांग नियमानुसार न होने के कारण नहीं मानी गयी एवं जब नियमों में संशोधन हुआ इसके बाद ही 30.6.15 के आदेश द्वारा नियुक्ति दी गयी। प्रार्थी के साथ कोई भेदभाव अथवा मनमानी व्यवहार नहीं किया गया जो संविधान के अनुच्छेद 14 व 16 के विपरीत हो। समस्त कार्यवाही संस्थान के सेवा नियमों के अनुसार की गयी है, अतः याचिका हर्जा सहित खारिज की जाये।

5. दिनांक 25.1.17 को पत्रावली में जवाब प्रस्तुत किया गया। न्यायाधिकरण द्वारा पत्रावली पहले से दिनांक 25.1.17 को सुलह हेतु नियत की गयी थी परन्तु प्रयास के बावजूद सुलह न हो सकी। वादोत्तर के कथन में प्रार्थी को पदोन्नति 30.6.15 से दी गयी थी परन्तु प्रार्थी पक्ष की याचिका में दिनांक 1.7.12 से पदोन्नति माँगने के कारण सुलह न हो सकी। याची भी व्यक्तिगत रूप से उपस्थित नहीं आया। याची के विद्वान प्रतिनिधि ने समय की मांग की। न्यायाधिकरण द्वारा पुनः पत्रावली को फरवरी माह की लोक अदालत में रखने के लिए आदेश पारित किया गया ताकि प्रार्थी की सहमति की जानकारी प्राप्त हो सके। दिनांक 15.2.17 को पत्रावली रिज्वायन्डर एवं दस्तावेज याची तथा सुलह के प्रयास हेतु नियत की गयी। दिनांक 15.2.17 को याची पक्ष द्वारा रिज्वायन्डर एवं दस्तावेज नहीं प्रस्तुत किया गया एवं विपक्ष अनुपस्थित रहा। सुलह के प्रयास हेतु पत्रावली पुनः दिनांक 20.2.17 को लोक अदालत में नियत की गयी।

6. दिनांक 20.2.17 को पत्रावली लोक अदालत में प्रस्तुत हुई। उभयपक्ष के विद्वान प्रतिनिधि सुलह पर सहमत हुए। विपक्ष की तरफ से श्री के.जी.चन्द्रशेखरन, डी.जी.एम. उपस्थित आये। उभयपक्ष के विद्वान प्रतिनिधि ने सुलहनामा प्रस्तुत किया जो निम्नवत् है:-

**BEFORE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL—CUM-LABOUR
COURT, JAIPUR**

I.D. 65/2014

[Ref.No. L-42011/36/2014-IR(DU)] dated : 11.8.2014

The General Secretary
Parmanu Vidyut karmachari Union (CITU)
CITU Union Office, Phase-2,
Rawatbhata (Kota)-323307.

V/s

The Site Director
Rajasthan Atomic Power Station
Rawatbhata, PO Anushakti,
Kota (Rajasthan)- 323303.

Lok- Adalat

Dated :20.2.2017

In the above mentioned case it is respectfully submitted that case between the parties has been amicably settled and there is no dispute pending between the parties to be decided. Applicant has been promoted to the post of Technician-B, Theatre Assistant.

It is, therefore, most humbly requested that case may be disposed in Lok-Adalat today on 20.2.2017.

(signature illegible in hindi)
Representative of opposite party
(Sh. Dharmendra Jain)

(signature legible in hindi)
Representative of Applicant
(Sh. Jagdish Gupta)

(signature illegible)
(K.G.Chandrasekharan)
DGM(HR)

7. लोक अदालत में पत्रावली को निस्तारित करते हुए निम्न आदेश पारित किया गया:—

20.2.17 लोक अदालत

आज पत्रावली लोक अदालत में प्रस्तुत हुई। याची के विद्वान प्रतिनिधि श्री जगदीश गुप्ता, एडवोकेट, तथा विपक्ष के विद्वान प्रतिनिधि श्री धर्मेन्द्र जैन, एडवोकेट, तथा विपक्ष के श्री के.जी.चन्द्रशेखरन, डी.जी.एम. (एच.आर.) उपस्थित आये। याची पक्ष की तरफ से सुलहनामा जरिये विद्वान प्रतिनिधि याची, विपक्षी प्रतिनिधि के साथ संयुक्त रूप में प्रस्तुत हुआ। सुलह की शर्तें उभयपक्ष को सुनायी एवं समझायी गयी। सुलहनामा स्वेच्छया प्रस्तुत हुआ पाया गया। सुलहनामे की तसदीक पक्षकारों ने की है। इस मामले को तदनुसार उभयपक्ष की तरफ से प्रस्तुत सुलहनामे के आधार पर निस्तारित किया जाता है। सुलहनामा दिनांकित 20.2.17 एवार्ड का अंश होगा।

8. न्यायनिर्णयन हेतु प्रेषित निर्देश का उत्तर उक्त प्रकार दिया जाता है। पंचाट तदनुसार पारित किया जाता है।

भरत पाण्डेय, पीठासीन अधिकारी

नई दिल्ली, 29 मई, 2017

का.आ. 1360.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार अध्यक्ष और प्रबंध निदेशक, न्यूक्लियर पावर कॉर्पोरेशन ऑफ इंडिया लिमिटेड, मुंबई व अन्य और उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर के पंचाट (संदर्भ सं. 63/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 20.01.2017 को प्राप्त हुआ था।

[सं. एल-42011/90/2015-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 29th May, 2017

S.O. 1360.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID Case No. 63/2015) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the Chairman and Managing Director, Nuclear Power Corporation of India Ltd., Mumbai and others and their workman, which was received by the Central Government on 20.01.2017.

[No. L-42011/90/2015-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JAIPUR

BHARAT PANDEY, Presiding Officer

CGIT 63/2015

Mukesh Kumar Verma
Son of Shri Durga Shankar Bagoriya
Resident of Kasturi Bhawan, Main Road,
Pratap Market, New Market, Near Heena Furniture,

Rawat Bhata, Via-Kota, District Chittorgarh (Raj.),
Pin : 323307.

V/s

1. Chairman and Managing Director
Nuclear Power Corporation of India Ltd.,
Nabhikiya Urja Bhawan, Anushakti Nagar,
Mumbai – 400094.
2. Director (HR)
Disciplinary Authority,
Nuclear Power Corporation of India Ltd.,
Vikram Sarabhai Bhawan, Anushakti Nagar,
Mumbai – 400094.
3. Site Director,
Rawatbhata Rajasthan Site,
Nuclear Power Corporation of India Ltd.,
PO : Anushakti Via Kota, Rajasthan,
Pin : 323303.

Present :

For the applicant : Sh. Suresh Kashyap, Advocate
For the non-applicants : Sh. Dharmendra Jain, Advocate

AWARD

Dated :22.12.2016

1. Applicant Sh. Mukesh Kumar Verma has filed statement of claim against his order of dismissal dated 16.7.2012 under section 2-A of I.D.Act on 23.6.2015 for relief of re-instatement in service with consequential benefits.
2. Briefly facts of the case is that applicant was appointed on the post of LDC (T) on 26.3.1991 by opposite party and was in the service since 26.3.1991. Service of the applicant is covered under Industrial Employment (standing Orders) Act, 1946 & Industrial employment (standing orders) Central Rules, 1946.
3. On 2.1.2010 applicant was served with charge sheet dated 17.12.2009 which carried four charges and reply to the charges was submitted by applicant on 15.6.2010. Charges against applicant are said to have been covered under rule 14 of Schedule-1 of model standing order under Industrial Employment (standing Orders) central rule, 1946. It has been further alleged that charges are vague and not covered under the defined list of misconduct under rule 14 of schedule-1 of the abovesaid rules of 1946.
4. It has been alleged in para 12 of statement of claim that charges contained in the charge sheet are not covered under standing orders & hence he can't be punished for the charges not covered under standing orders. In para 15 of the claim it has been alleged that there was no show cause notice before issue of charge sheet. The four charges leveled against the applicant are as under :-
 - (a) Firstly that he failed to maintain integrity and devotion to duty and acted in a manner unbecoming of a corporation employee (public servant);
 - (b) Secondly, that he acted in a manner unbecoming of a public servant in programme held on 15.2.2008 & 16.2.2008 in Company PACL India Ltd where wife of the applicant is employed (some photographs include part of charge which carry details of allegation of charge) ;
 - (c) Thirdly that he manipulated with his attendance records maintained in the attendance register;
 - (d) Fourthly that he failed to give details of his immovable & movable property beside the fact that he has not acquired permission from NPCIL (Nuclear Power Corporation of India Ltd) for acquisition of movable and immovable property.
5. It has been alleged that investigation and enquiry report by the vigilance officer was not done in accordance with the provisions of misconducts under model standing orders, hence, the charge sheet is defective, vague and illegal and liable to be quashed and set aside. Further, it has been alleged that enquiry officer has conducted the enquiry in violation of principle of natural justice which is fit to be declared unfair. It has been further alleged in para 58 that

penalty inflicted by Director (HR) NPCIL is without jurisdiction, hence, dismissal order is liable to be set aside because Director is not the notified disciplinary authority.

6. It has been prayed that order of dismissal dated 16.7.2012 be quashed, and set aside and respondents be directed to reinstate the applicant in service with consequential benefits.

7. Notices were sent to opposite parties who made appearance through their learned representative Shri Dharmendra Jain, Advocate. No reply was filed by opposite party against statement of claim because of their view that this tribunal is not having jurisdiction to try this case because reference has already been made by Hon'ble Ministry for adjudication of this dispute to Industrial Tribunal, Central, Kota (Raj.) vide Ministry's order no. L-42011/90/2015-IR(DU) dated 13.8.2015. Thus, jurisdiction of this tribunal was challenged by opposite party vide application dated 4.8.16. Argument of learned representative of both the parties were heard and issue of jurisdiction was adjudicated by this tribunal vide order dated 22.12.2016 which reads as under :

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर

सी.जी.आई.टी. प्रकरण सं. 63/2015

दिनांक 22.12.2016

मुकेश कुमार वर्मा

बनाम

न्यूक्लियर पॉवर कार्पोरेशन ऑफ इण्डिया लि.

विपक्ष की आवेदन दिनांकित 4.8.2016 का निस्तारण।

1. मैंने उभयपक्ष के विद्वान प्रतिनिधिगण की बहस सुनी तथा पत्रावली का सम्यक् अवलोकन किया।
2. आवेदन में कहा गया है कि यह मामला प्रार्थी की सेवामुक्ति से सम्बन्धित है एवं प्रार्थी द्वारा प्रस्तुत शिकायत पर भारत सरकार द्वारा न्यायनिर्णयन हेतु माननीय श्रम न्यायालय, कोटा को सुपुर्द किया गया है। यह भी कहा गया है कि जब भारत सरकार द्वारा विवाद न्यायनिर्णयन हेतु कोटा को अग्रसारित किया गया है तो ऐसी स्थिति में धारा 2 ए(2) औद्योगिक विवाद अधिनियम के अन्तर्गत यह मामला इस न्यायाधिकरण में पोषणीय नहीं है अतः प्रार्थी द्वारा प्रस्तुत याचिका खारिज की जाये।
3. प्रार्थी पक्ष की तरफ से कोई लिखित आपत्ति नहीं की गयी है। विपक्षी/आवेदनकर्त्ता के विद्वान प्रतिनिधि ने बहस की है कि रिफरेन्स को न्यायनिर्णयन हेतु भारत सरकार द्वारा कोटा भेजने के बाद जयपुर के औद्योगिक न्यायाधिकरण/श्रम न्यायालय को इस मामले की सुनवाई का क्षेत्राधिकार नहीं रह गया है एवं सुनवाई का क्षेत्राधिकार केवल कोटा के श्रम न्यायालय को रह गया है अतः धारा 2 ए(2) के अन्तर्गत याचिका क्षेत्राधिकार न होने के कारण खारिज की जाये।
4. याची के विद्वान प्रतिनिधि ने उक्त बहस के विरुद्ध यह बहस की है कि धारा 2 ए(2) के अन्तर्गत याची क्लेम प्रस्तुत कर सकता है इसलिए उसने क्लेम प्रस्तुत किया, ऐसी स्थिति में मन्त्रालय द्वारा जारी रिफरेन्स एवं विपक्षी की आवेदन आधारहीन है। यह बहस भी की गयी है कि औद्योगिक न्यायालय, केन्द्रीय, कोटा, राजस्थान द्वारा मन्त्रालय को पत्र लिखा गया है कि कोटा के न्यायालय को रिफरेन्स को न्यायनिर्णयन हेतु जयपुर को भेजे जाने में कोई आपत्ति नहीं है।
5. उभयपक्ष द्वारा विपक्ष की आवेदन पर प्रस्तुत उक्त बहस के सन्दर्भ में विवेचना एवं निष्कर्ष के पूर्व मैं माननीय श्रम मन्त्रालय द्वारा न्यायनिर्णयन हेतु कोटा को प्रेषित रिफरेन्स दिनांकित 13.8.15 का उल्लेख करना आवश्यक समझता हूँ जो निम्नवत् है :—
“क्या प्रबंधन श्रीमान् अध्यक्ष एवं प्रबन्ध निदेशक, न्यूक्लियर पॉवर कार्पोरेशन ऑफ इण्डिया लि., मुम्बई तथा श्रीमान् स्थल निदेशक, राजस्थान परमाणु बिजलीघर, आर.आर.साईट, रावतभाटा वाया कोटा (राज.) द्वारा कर्मकार श्री मुकेश कुमार वर्मा की सेवा समाप्ति के दण्डादेश दिनांक 16.07.2012 के द्वारा सेवा समाप्ति की कार्यवाही वैधानिक एवं न्यायसंगत है, यदि नहीं तो प्रार्थी किस राहत का और कब से पाने का हकदार है?”
6. उक्त विवाद के सम्बन्ध में प्रार्थी मुकेश कुमार वर्मा ने धारा 2 ए (2) के अन्तर्गत अपनी याचिका जयपुर न्यायाधिकरण के समक्ष दिनांक 23.6.15 को प्रस्तुत की है एवं सुलह-समझौता अधिकारी (सहायक श्रम आयुक्त) (केन्द्रीय) कोटा (राज.) द्वारा असफल वार्ता आख्या दिनांक 25.2.15 को केन्द्रीय सरकार को भेजी गयी है।
7. उक्त परिस्थिति में मुख्य विचारणीय प्रश्न यह है कि क्या रिफरेन्स के अस्तित्व में रहते हुए यह मामला धारा 2 ए(2) के अन्तर्गत इस न्यायाधिकरण में चलते रहने योग्य है?
8. याची के विद्वान प्रतिनिधि की बहस में कथन है कि धारा 2 ए(2) के अन्तर्गत इस याचिका के अस्तित्व में आने के बाद केन्द्रीय सरकार द्वारा प्रेषित रिफरेन्स एवं विपक्ष की आवेदन आधारहीन है। इस सम्बन्ध में विवाद के रिफरेन्स से सम्बन्धित धारा 10 के प्राविधान का उल्लेख करना मैं आवश्यक समझता हूँ जो निम्नवत् है :—

"10- Reference of dispute to Boards, Courts or Tribunals."

(1) where the appropriate Govt. is of opinion that any industrial dispute exists or is apprehended, it may at any time, by order in writing -

(a) refer the dispute to a board for promoting a settlement thereof; or

(b) refer any matter appearing to be connected with or relevant to the dispute to a court for inquiry ; or

(c) refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, if it relates to any matter specified in the second Schedule, to a Labour Court for adjudication; or

(d) refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, whether it relates to any matter specified in the second schedule or the third schedule, to a Tribunal for adjudication;

Provided that where the dispute relates to any matter specified in the Third Schedule and is not likely to affect more than one hundred workmen, the appropriate Govt. may, if its so thinks fit, make the reference to a Labour Court under clause (c)

Provided further that where the dispute relates to a public utility service and a notice under section 22 has been given, the appropriate govt shall, unless it considers that the notice has been frivolously or vexatiously given or that it would be inexpedient so to do, make a reference under this sub section notwithstanding that any other proceedings under this Act in respect of the dispute may have commenced:

Provided also that where the dispute in relation to which the Central govt is the appropriate Govt, it shall be competent for the Govt to refer the dispute to a Labour Court or an Industrial Tribunal, as the case may be, constituted by the State Govt."

9. उक्त प्राविधान के अवलोकन से यह निर्विवाद रूप से स्पष्ट है कि रिफरेन्स किसी भी समय किया जा सकता है, अर्थात धारा 2 (ए) के अन्तर्गत याचिका की प्रस्तुति के बाद भी न्यायनिर्णयन हेतु रिफरेन्स करने पर कोई निषेध नहीं है। अतः प्रार्थी के विद्वान प्रतिनिधि की यह बहस बलहीन एवं सारहीन है कि धारा 2 ए(2) के अन्तर्गत बाद की प्रस्तुति के बाद विवाद का निर्णयार्थ किया गया रिफरेन्स आधारहीन (Baseless) है अथवा विपक्षी की आवेदन आधारहीन है। इस प्रकार धारा 10 औद्योगिक विवाद अधिनियम 1947 के उक्त प्राविधान से यह तथ्य निर्विवाद है कि कोटा न्यायालय को रिफरेन्स करने में केन्द्रीय सरकार द्वारा कोई विधिक त्रुटि नहीं की गयी है।

10. जहाँ तक याची द्वारा इस न्यायाधिकरण में धारा 2 ए(2) के अन्तर्गत प्रस्तुत मामले की इस न्यायाधिकरण द्वारा सुनवाई के क्षेत्राधिकार का प्रश्न है इस सम्बन्ध में उल्लेखनीय है कि जब एक ही विवाद पर दो मामले विचाराधीन हैं तो ऐसी स्थिति में यह तथ्य भी निर्विवाद है कि दोनों में से केवल एक ही मामला चल सकता है क्योंकि एक ही मामले में दो निर्णय नहीं पारित किया जा सकता है। याची ने क्षेत्राधिकार के उद्देश्य से इस न्यायाधिकरण का चुनाव क्यों किया है इस बिन्दु पर याचिका के किसी प्रस्तर में कोई उल्लेख नहीं है, जब कि समझौता वार्ता के उद्देश्य से याची ने सहायक श्रम आयुक्त, केन्द्रीय, कोटा के भौगोलिक क्षेत्राधिकार का प्रयोग किया है, शायद यही कारण है कि केन्द्रीय सरकार ने मामले को न्यायनिर्णयन हेतु कोटा स्थित न्यायालय को भेजा है। जहाँ तक कोटा के न्यायालय को इस मामले की सुनवाई का क्षेत्राधिकार होने का प्रश्न है, यह तथ्य निर्विवाद है कि कोटा के न्यायालय को रिफरेन्स भेजे जाने के कारण सुनवाई का क्षेत्राधिकार प्राप्त है एवं यह क्षेत्राधिकार विधिसंगत है।

11. याची के विद्वान प्रतिनिधि की जहाँ तक इस बहस का प्रश्न है कि कोटा, न्यायालय के विद्वान पीठासीन न्यायाधीश ने यह प्रकट किया है कि उन्हें मामले को जयपुर न्यायालय में स्थानान्तरित होने में आपत्ति नहीं है, इस सम्बन्ध में उल्लेखनीय है कि उनके पत्र के आधार पर रिफरेन्स से सम्बन्धित मामले में इस न्यायाधिकरण को सुनवाई की अधिकारिता नहीं प्राप्त होती है और न ही कोटा न्यायालय की सुनवाई का क्षेत्राधिकार उक्त पत्र से समाप्त होता है, अतः कोटा न्यायालय के उक्त पत्र से प्रार्थी को कोई लाभ प्राप्त नहीं होता है। याची यह दर्शाने में असफल है कि रिफरेन्स पर आधारित वाद के अस्तित्व में रहते हुए धारा 2 ए(2) के अन्तर्गत प्रस्तुत वाद किस प्रकार इस न्यायाधिकरण में चलने योग्य है। उक्त व्याख्या एवं विश्लेषण के आधार पर मैं इस निष्कर्ष पर हूँ कि याची को विधिसंगत क्षेत्राधिकार वाले न्यायालय में अपने मामले को प्रस्तुत करना चाहिए जो कोटा की न्यायालय है एवं धारा 2 ए(2) के अन्तर्गत प्रस्तुत याचिका इस न्यायालय में वर्तमान तथ्य एवं परिस्थिति में चलने योग्य नहीं है।

12. जहाँ तक पोषणीयता के अभाव में याची द्वारा धारा 2 ए(2) के अन्तर्गत प्रस्तुत याचिका के खारिज किये जाने का प्रश्न है इस सन्दर्भ में उल्लेखनीय है कि याची की आवेदन खारिज करने के बजाय मैं इसे सक्षम न्यायालय में प्रस्तुत करने के लिए वापस करना न्यायोचित समझता हूँ। विपक्ष की आवेदन तदनुसार अंशतः स्वीकार किये जाने योग्य है तथा विपक्षी की याचिका सक्षम न्यायालय में प्रस्तुत किये जाने हेतु वापस होने योग्य हैं।

आदेश

13. याची की याचिका सक्षम न्यायालय में प्रस्तुत करने हेतु वापस की जाती है। विपक्ष की आवेदन तदनुसार अंशतः स्वीकार की जाती है। पत्रावली याचिका वापसी की कार्यवाही के बाद नियमानुसार दाखिल दफ्तर हो।

8. Award as above.

BHARAT PANDEY, Presiding Officer

नई दिल्ली, 29 मई, 2017

का.आ. 1361.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक (एचआर), एचएएल लिमिटेड, बेंगलोर व अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बेंगलोर के पंचाट (संदर्भ सं. 17/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12.05.2017 को प्राप्त हुआ था।

[सं. एल-42025/03/2017-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 29th May, 2017

S.O. 1361.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID Case No. 17/2015) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the Industrial Dispute between the employers in relation to the General Manager (HR), HAL Ltd., Bangalore & others and their workman, which was received by the Central Government on 12.05.2017.

[No. L-42025/03/2017-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 27th April, 2017

PRESENT : Shri V. S. RAVI, Presiding Officer

ID No. 17/2015

I Party

Shri. V. Muniraja,
S/o Venkatagiriappa,
Residing at No. 36, Chattarjee
Building, 1st Cross,
New Baiyyappanahalli,
Indiranagar,
Bengaluru – 560038

II Party

1. The General Manager (HR)-BC, HAL Ltd., Bangalore Complex, Vimanapura HAL, Bangalore - 560017
2. The Managing Director, Amps Electrical Facility Service Pvt. Ltd. No. 25/1, Srikanta Mahal, Sampige Road, 1st Cross, Malleshwaram, Bangalore - 560003
3. Shri. V. Ananda, Proprietor, No.1, Ananda Ground Floor, 1st Cross, N.R. Layout, Konena Agrahara, Bangalore – 560017
4. The Managing Director, Trendsetters Services Pvt. Ltd, No.1681 36, Hari Singh Nalwa Street, Karola Bagh New Delhi – 110005
5. The Managing Director, M/s M.P Enterprises and Associates Ltd, Chiranjeev Apartments, II Floor, Office No.2 Karve Road, Eradwane Pune – 411038

AWARD

1. The present ID has been filed by the I Party/Workman claiming relief as follows:-
 - a) To hold that, the First II Party/Management was not justified in terminating the employment of the I Party/Workman with effect from 01.05.2015 and set aside the termination.
 - b) To direct that, the First II Party/Management to reinstate the I Party/workman in his original post, with full back wages, continuity of service and all other consequential benefits and along with costs of these proceedings and
 - c) Pass and other order as deemed fit in the facts and circumstances of the case in the interest of natural justice and equity.

2. Further, the II Party Counsel has filed the memo dated 18.04.2017, by stating as follows:-

“The under signed counsel appearing for II Party in the above case, and the I Party/workman have filed Writ Petition before the Hon’ble High Court of Karnataka regarding their dispute comes before the State Labour Court. Hon’ble High Court permitted the I Party to withdraw the dispute before this Court and as per law they can approach the State Labour Court. This memo is filed for kind perusal of this Court in the interest of justice and equity.”

3. Infact, in Writ Petition No. 8179/2016 C/w. Writ Petition Nos. 8180/2016, 8181/2016 & 8182/2016 (L-RES) dated 22.11.2016, the Hon’ble High Court of Karnataka has passed an order as follows:- “After arguing the matter for some time, the learned counsel for the petitioners has filed a memo to withdraw these writ petitions, with liberty to approach the State Labour Court after withdrawing the matters pending before the Central Government Industrial Tribunal. The memo is placed on record. The writ petition are disposed of as withdrawn with liberty as prayed for. All contentions of both parties are left open to be urged before the State Labour Court in accordance with law.”

4. Consequently, it is found that present ID has to be disposed of, as withdrawn, with liberty to approach the State Labour Court and also, contentions of both parties are left open to be urged before the State Labour Court in accordance with law.

5. Further, taking into consideration the above mentioned facts and circumstances, it is found that the I party cannot seek the reliefs, before this Tribunal. At the same time, this Tribunal is disposing the present case as withdrawn with liberty to approach the State Labour Court and also, all the contentions of both parties are left open to be urged before the State Labour Court in accordance with law. Hence, the following Award is passed:-

AWARD

This Tribunal is disposing the present case as withdrawn with liberty to approach the State Labour Court and also, all the contentions of both parties are left open to be urged before the State Labour Court in accordance with law, as per the order dated 22.11.2016, passed by the Hon’ble High Court in W.P.No. 8179/2016 c/w W.P Nos. 8180/2016, 8181/2016 & 8182/2016 (L-RES). The True copy of the said order passed by the Hon’ble High Court is enclosed with the present award as Annexure-‘A’, for better and proper understanding, and this Tribunal has not expressed any opinion regarding the various other issues raised by both the parties, as the present matter has been disposed of, as per the above mentioned order of the Hon’ble High Court, and also, without costs, for the above mentioned facts and circumstances.

(Dictated, transcribed, corrected and signed by me on 27th April, 2017)

V. S. RAVI, Presiding Officer

ANNEXURE

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF NOVEMBER, 2016

BEFORE

THE HON’BLE MR. JUSTICE B. VEERAPA

WRIT PETITION NO. 8179/2016

C/w.

WRIT PETITION NOS. 8180/2016, 8181/2016

& 8182/2016 (L-RES)

IN W.P. NO. 8179/2016

BETWEEN :

SHRI R. PANDURANGA,
S/O. SHRI RANGASWAMY,
AGED ABOUT 40 YEARS,
RESIDING AT NO. 94,
MUTHASANDRA ROAD,
NEAR LAKSHMI TEMPLE,
MADURANAGAR, 2ND STAGE,
VARTHUR, BANGALORE NOTRH,
BENGALURU-560 008

...PETITIONER

(BY SRI CLIFTON D. ROZARIO, ADV.)

AND

1. HINDUSTAN AERONAUTICS LIMITED
REPRESENTED BY THE
GENERAL MANAGER (HR)- BC,
BANGALORE COMPLEX,
HINDUSTAN AERONAUTICS LIMITED,
VIMANAPURA HAL,
BANGALORE-560 017
2. GOVERNMENT OF INDIA
MINISTRY OF LABOUR AND EMPLOYMENT,
SHRAM SHAKTI BHAWAN,
RAFI MARG, NEW DELHI-110001,
REPRESENTED BY ITS SECRETARY.
3. REGIONAL LABOUR
COMMISSIONER (CENTRAL)
SHRAM SADAN,
3RD CROSS, 3RD MAIN II PHASE,
YESHWANTPUR,
BANGALORE-560 022.
4. SHRI. V. ANANDA
PROPRIETOR,
NO.1, 'ANANDA' GROUND FLOOR,
1ST CROSS, N.R. LAYOUT,
KONENA AGRAHARA,
BANGALORE-560 017.

...RESPONDENTS

(BY SRI S.R. DODAWAD, ADV. FOR R2 & R3;
R1 & R4 NOTICE NOT ORDERED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA WITH A PRAYER TO DIRECT THE R-1 TO IMMEDIATELY CEASE THE UNFAIR LABOUR PRACTICE METED TO THE PETITIONER AND REINSTATE HIM ON ITS ROLLS AS ITS DIRECT AND PERMANENT EMPLOYEE AND ETC.

IN W.P. NO. 8180/2016

SHRI NARASIMHA A,
S/O. SHRI NARASAIYA A,
AGED ABOUT 41 YEARS,
RESIDING AT NO. C.D.10,
2ND CROSS, SHIRAM NAGAR,
MURUGESH PALYA,
OLD AIRPORT ROAD,
BANGALORE-560 017

...PETITIONER

(BY SRI CLIFTON D. ROZARIO, ADV.)

AND:

1. HINDUSTAN AERONAUTICS LIMITED
REPRESENTED BY THE
GENERAL MANAGER (HR)-BC,
BANGALORE COMPLEX,
HINDUSTAN AERONAUTICS LIMITED,
VIMANAPURA HAL,
BANGALORE-560 017
2. GOVERNMENT OF INDIA
MINISTRY OF LABOUR EMPLOYMENT,
SHRAM SHAKTI BHAWAN,
RAFI MARG, NEW DELHI-110001,
REPRESENTED BY ITS SECRETARY.

3. REGIONAL LABOUR
COMMISSIONER (CENTRAL)
SHRAM SADAN,
3RD CROSS, 3RD MAIN II PHASE,
YESHWANTPUR,
BANGALORE-560 022.

4. M/S. M. P. ENTERPRISES AND
ASSOCIATES LTD.
REPRESENTED BY ITS
MANAGING DIRECTOR,
CHIRANJEEV APARTMENTS,
II FLOOR, OFFICE NO. 2,
KARVE ROAD,
ERADWANE,
PUNE-411 039.

...RESPONDENTS

(BY SRI S.R. KARALA CHARAN, ADV. FOR R1;
SRI S.R.DODAWAD, ADV. FOR R2 & R3,
SRI K.G.SHANTHAIAH, ADV. FOR R4

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA WITH A PRAYER TO DIRECT THE R-1 TO IMMEDIATELY CEASE THE UNFAIR LABOUR PRATICE METED TO THE PETITIONER AND REINSTATE HIM ON ITS ROLLS AS ITS DIRECT AND PERMANENT EMPLOYEE AND ETC.

IN W.P. NO. 8181/2016

BETWEEN :

SHRI V. MUNIRAJA,
S/O. SHRI VENKATA GIRIYAPPA,
AGED ABOUT 48 YEARS,
RESIDING AT NO. 36,
CHATTARJEE BULLDING,
1ST CROSS, NEW BAIYYAPPANAHALLI,
INDIRANAGAR, BENGALURU-560 038.

...PETITIONER

(BY SRI CLIFTON D. ROZRIO, ADV.)

AND

1. HINDUSTAN AERONAUTICS LIMITED
REPRESENTED BY THE
GENERAL MANAGER (HR)-BC,
BANGALORE COMPLEX,
HINDUSTAN AERONAUTICS LIMITED,
VIMANAPURA HAL,
BANGALORE-560 017
2. GOVERNMENT OF INDIA
MINISTRY OF LABOUR EMPLOYMENT,
SHRAM SHAKTI BHAWAN,
RAFI MARG, NEW DELHI-110001,
REPRESENTED BY ITS SECRETARY.
3. REGIONAL LABOUR
COMMISSIONER (CENTRAL)
SHRAM SADAN,
3RD CROSS, 3RD MAIN II PHASE,
YESHWANTPUR,
BANGALORE-560 022.
4. M / S. AMPS ELECTRICAL FACILITY
SERVICES PVT. LTD.
REPRESENTED BY ITS

MANAGING DIRECROR,
NO. 25 /1, SRIKANT MAHAL,
SAMPIGE ROAD, 1ST CROSS,
MALLESHWARAM,
BANGALORE-560 003

...RESPONDENTS

(BY SRI S.R. KAMALA CHARAN, ADV. FOR R1
SRI S.R. DODAWAD, ADV. FOR R2 & R3,
R4 SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA WITH A PRAYER TO DIRECT THE R-1 TO IMMEDIATELY CEASE THE UNFAIR LABOUR PRATICE METED TO THE PETITIONER AND REINSTATE HIM ON ITS ROLLS AS ITS DIRECT AND PERMANENT EMPLOYEE AND ETC.

IN W.P. NO. 8182/2016

SHRI. P. SRINIVASA,
S / O. SHRI.PENCHALIAH,
AGED AVOUT 39 YEARS,
RESEDING AT NO 36/D,
D.C.A. COMPLEX,
CAMBRIDGE LAYOUT,
ULSOR,
BENGALURU-560 008.

...PETITIONER

(BY SRI CLIFTON D. ROZARIO, ADV.)

AND

1. HIDUSTAN AERONAUTICS LIMITED
REPRESENTED BY THE
GENERAL MANAGER (HR)-BC,
BANGALIRE COMPLEX,
HINDUSTAN AERONAUTICS LIMITED,
VIMANAPURA HAL,
BANGALORE-560 017
2. GOVERNMENT OF INDIA
MINISTRY OF LABOUR AND EMPLOYMENT,
SHRAM SHAKTI BHAWAN,
RAFI MARG, NEW DELHI-110001,
REPRESENTED BY ITS SECRETARY.
3. REGIONAL LABOUR
COMMISSIONER (CENTRAL)
SHRAM SADAN,
3RD CROSS, 3RD MAIN II PHASE,
YESHWANTPUR,
BANGALORE-560 022.
4. M / S. AMPS ELECTRICAL FACILITY
SERVICES PVT. LTD.
REPRESENTED BY ITS
MANAGING DIRECROR,
NO. 25/1, SRIKANT MAHAL,
SAMPIGE ROAD, 1ST CROSS,
MALLESHWARAM,
BANGALORE-560 003

...RESPONDENTS

(BY SRI S.R. KAMALA CHARAN, ADV. FOR R1
SRI S.R. DODAWAD, ADV. FOR R2 & R3,
R4 SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA WITH A PRAYER TO DIRECT THE R-1 TO IMMEDIATELY CEASE THE UNFAIR LABOUR

PRATICE METED TO THE PETITIONER AND REINSTATE HIM ON ITS ROLLS AS ITS DIRECT AND PERMANENT EMPLOYEE AND ETC.

THESE PETITIONS COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, THE COURT MADE THE FOLLOWING :

ORDER

The petitioners have filed the present writ petitions seeking for a direction to the respondents to immediately cease the unfair practice meted to the petitioners and reinstate the petitioners on their rolls as their direct and permanent employees, constitute the Central Government Industrial Tribunal and Labour Court expeditiously and take the petitioners back on their rolls and await the resolution of the Industrial Dispute referred to the Central Government Industrial Tribunal and Labour Court before giving effect to the order of termination.

2. After arguing the matter for some time, the learned counsel for the petitioners has filed a memo to withdraw these writ petitions with liberty to approach the State Labour Court after withdrawing the matters pending before the Central Government Industrial Tribunal.

3. The memo is placed on record.

4. The writ petitions are disposed of as withdrawn with liberty as prayed for. All contentions of both the parties are left open to be urged before the State Labour Court in accordance with law.

-Sd/-

Judge

नई दिल्ली, 29 मई, 2017

का.आ. 1362.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक (एचआर) - बीसी, एचएएल लिमिटेड, बेंगलोर व अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बेंगलोर के पंचाट (संदर्भ सं. 18/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12.05.2017 को प्राप्त हुआ था।

[सं. एल-42025/03/2017-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 29th May, 2017

S.O. 1362.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID Case No. 18/2015) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the Industrial Dispute between the employers in relation to the General Manager (HR) - BC, HAL Ltd., Bangalore & others and their workman, which was received by the Central Government on 12.05.2017.

[No. L-42025/03/2017-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
BANGALORE**

DATED : 27th April, 2017

PRESENT : Shri V. S. RAVI, Presiding Officer

ID No. 18/2015

I Party

Shri. R. Panduranga,
S/o Shri Rangaswamy,

II Party

1. The General Manager (HR)-BC, HAL Ltd., Bangalore Complex,
Vimanapura HAL, Bangalore - 560017

Residing at No. 94,
Muthasandra Road,
Near Lakshmi Temple,
Maduranagar, 2nd Stage, Varthur,
Bengalore North,
Bengaluru – 560087

2. The Managing Director, Amps Electrical Facility Service Pvt. Ltd. No. 25/1, SrikantaMahal, Sampige Road, 1st Cross, Malleshwaram, Bangalore - 560003
3. Shri. V.Ananda, Proprietor, No.1, Ananda Ground Floor, 1st Cross, N.R. Layout, Konena Agrahara, Bangalore – 560017
4. The Managing Director, Trendsetters Services Pvt. Ltd, No.1681 36, Hari Singh Nalwa Street, KarolaBagh New Delhi – 110005
5. The Managing Director, M/s M.P Enterprises and Associates Ltd, Chiranjeev Apartments, II Floor, Office No.2 Karve Road, Eradwane Pune – 411038

AWARD

1. The present ID has been filed by the I Party/Workman claiming relief as follows:-
 - a) To hold that, the First II Party/Management was not justified in terminating the employment of the I Party/Workman with effect from 01.05.2015 and set aside the termination.
 - b) To direct that, the First II Party/Management to reinstate the I Party/workman in his original post, with full back wages, continuity of service and all other consequential benefits and along with costs of these proceedings and
 - c) Pass and other order as deemed fit in the facts and circumstances of the case in the interest of natural justice and equity.
2. Further, the II Party Counsel has filed the memo dated 18.04.2017, by stating as follows:-

“The under signed counsel appearing for II Party in the above case, and the I Party/workman have filed Writ Petition before the Hon’ble High Court of Karnataka regarding their dispute comes before the State Labour Court. Hon’ble High Court permitted the I Party to withdraw the dispute before this Court and as per law they can approach the State Labour Court. This memo is field for kind perusal of this Court in the interest of justice and equity.”
3. Infact, in Writ Petition No. 8179/2016 C/w. Writ Petition Nos. 8180/2016, 8181/2016 & 8182/2016 (L-RES) dated 22.11.2016, the Hon’ble High Court of Karnataka has passed an order as follows:- “After arguing the matter for some time, the learned counsel for the petitioners has filed a memo to withdraw these writ petitions, with liberty to approach the State Labour Court after withdrawing the matters pending before the Central Government Industrial Tribunal. The memo is placed on record. The writ petition are disposed of as withdrawn with liberty as prayed for. All contentions of both parties are left open to be urged before the State Labour Court in accordance with law.”
4. Consequently, it is found that present ID has to be disposed of, as withdrawn, with liberty to approach the State Labour Court and also, contentions of both parties are left open to be urged before the State Labour Court in accordance with law.
5. Further, taking into consideration the above mentioned facts and circumstances, it is found that the I party cannot seek the reliefs, before this Tribunal. At the same time, this Tribunal is disposing the present case as withdrawn with liberty to approach the State Labour Court and also, all the contentions of both parties are left open to be urged before the State Labour Court in accordance with law. Hence, the following Award is passed:-

AWARD

This Tribunal is disposing the present case as withdrawn with liberty to approach the State Labour Court and also, all the contentions of both parties are left open to be urged before the State Labour Court in accordance with law, as per the order dated 22.11.2016, passed by the Hon’ble High Court in W.P.No. 8179/2016 c/w W.P Nos. 8180/2016, 8181/2016 & 8182/2016 (L-RES). The True copy of the said order passed by the Hon’ble High Court is enclosed with the present award as Annexure-‘A’, for better and proper understanding, and this Tribunal has not expressed any opinion regarding the various other issues raised by both the parties, as the present matter has been disposed of, as per the above mentioned order of the Hon’ble High Court, and also, without costs, for the above mentioned facts and circumstances.

(Dictated, transcribed, corrected and signed by me on 27th April, 2017)

V. S. RAVI, Presiding Officer

ANNEXURE

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF NOVEMBER, 2016

BEFORE

THE HON'BLE MR. JUSTICE B. VEERAPA

WRIT PETITION NO. 8179/2016**C/w.****WRIT PETITION NOS. 8180/2016, 8181/2016****& 8182/2016 (L-RES)****IN W.P. NO. 8179/2016****BETWEEN :**

SHRI R. PANDURANGA,
S/O. SHRI RANGASWAMY,
AGED ABOUT 40 YEARS,
RESIDING AT NO. 94,
MUTHASANDRA ROAD,
NEAR LAKSHMI TEMPLE,
MADURANAGAR, 2ND STAGE,
VARTHUR, BANGALORE NOTRH,
BENGALURU-560 008

...PETITIONER

(BY SRI CLIFTON D. ROZARIO, ADV.)

AND

1. HINDUSTAN AERONAUTICS LIMITED
REPRESENTED BY THE
GENERAL MANAGER (HR)- BC,
BANGALORE COMPLEX,
HINDUSTAN AERONAUTICS LIMITED,
VIMANAPURA HAL,
BANGALORE-560 017
2. GOVERNMENT OF INDIA
MINISTRY OF LABOUR AND EMPLOYMENT,
SHRAM SHAKTI BHAWAN,
RAFI MARG, NEW DELHI-110001,
REPRESENTED BY ITS SECRETARY.
3. REGIONAL LABOUR
COMMISSIONER (CENTRAL)
SHRAM SADAN,
3RD CROSS, 3RD MAIN II PHASE,
YESHWANTPUR,
BANGALORE-560 022.
4. SHRI. V. ANANDA
PROPRIETOR,
NO.1, 'ANANDA' GROUND FLOOR,
1ST CROSS, N.R. LAYOUT,
KONENA AGRAHARA,
BANGALORE-560 017.

...RESPONDENTS

(BY SRI S.R. DODAWAD, ADV. FOR R2 & R3;
R1 & R4 NOTICE NOT ORDERED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA WITH A PRAYER TO DIRECT THE R-1 TO IMMEDIATELY CEASE THE UNFAIR LABOUR

PRATICE METED TO THE PETITIONER AND REINSTATE HIM ON ITS ROLLS AS ITS DIRECT AND PERMANENT EMPLOYEE AND ETC.

IN W.P. NO. 8180/2016

SHRI NARASIMHA A,
S/O. SHRI NARASAIYA A,
AGED ABOUT 41 YEARS,
RESIDING AT NO. C.D.10,
2ND CROSS, SHIRAM NAGAR,
MURUGESH PALYA,
OLD AIRPORT ROAD,
BANGALORE-560 017

...PETITIONER

(BY SRI CLIFTON D. ROZARIO, ADV.)

AND

1. HINDUSTAN AERONAUTICS LIMITED
REPRESENTED BY THE
GENERAL MANAGER (HR)-BC,
BANGALORE COMPLEX,
HINDUSTAN AERONAUTICS LIMITED,
VIMANAPURA HAL,
BANGALORE-560 017
2. GOVERNMENT OF INDIA
MINISTRY OF LABOUR EMPLOYMENT,
SHRAM SHAKTI BHAWAN,
RAFI MARG, NEW DELHI-110001,
REPRESENTED BY ITS SECRETARY.
3. REGIONAL LABOUR
COMMISSIONER (CENTRAL)
SHRAM SADAN,
3RD CROSS, 3RD MAIN II PHASE,
YESHWANTPUR,
BANGALORE-560 022.
4. M/S. M. P. ENTERPRISES AND
ASSOCIATES LTD.
REPRESENTED BY ITS
MANAGING DIRECTOR,
CHIRANJEEV APARTMENTS,
II FLOOR, OFFICE NO. 2,
KARVE ROAD,
ERADWANE,
PUNE-411 039.

...RESPONDENTS

(BY SRI S.R. KARALA CHARAN, ADV. FOR R1;
SRI S.R.DODAWAD, ADV. FOR R2 & R3,
SRI K.G.SHANTHAIAH, ADV. FOR R4

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA WITH A PRAYER TO DIRECT THE R-1 TO IMMEDIATELY CEASE THE UNFAIR LABOUR PRATICE METED TO THE PETITIONER AND REINSTATE HIM ON ITS ROLLS AS ITS DIRECT AND PERMANENT EMPLOYEE AND ETC.

IN W.P. NO. 8181/2016

BETWEEN ;

SHRI V. MUNIRAJA,
S/O. SHRI VENKATA GIRIYAPPA,
AGED ABOUT 48 YEARS,
RESIDING AT NO. 36,
CHATTARJEE BULLDING,

1ST CROSS, NEW BAIYYAPPANAHALLI,
INDIRANAGAR, BENGALURU-560 038.

...PETITIONER

(BY SRI CLIFTON D. ROZRIO, ADV.)

AND

1. HINDUSTAN AERONAUTICS LIMITED
REPRESENTED BY THE
GENERAL MANAGER (HR)-BC,
BANGALORE COMPLEX,
HINDUSTAN AERONAUTICS LIMITED,
VIMANAPURA HAL,
BANGALORE-560 017
2. GOVERNMENT OF INDIA
MINISTRY OF LABOUR EMPLOYMENT,
SHRAM SHAKTI BHAWAN,
RAFI MARG, NEW DELHI-110001,
REPRESENTED BY ITS SECRETARY.
3. REGIONAL LABOUR
COMMISSIONER (CENTRAL)
SHRAM SADAN,
3RD CROSS, 3RD MAIN II PHASE,
YESHWANTPUR,
BANGALORE-560 022.
4. M / S. AMPS ELECTRICAL FACILITY
SERVICES PVT. LTD.
REPRESENTED BY ITS
MANAGING DIRECTOR,
NO. 25 /1, SRIKANTA MAHAL,
SAMPIGE ROAD, 1ST CROSS,
MALLESHWARAM,
BANGALORE-560 003

...RESPONDENTS

(BY SRI S.R. KAMALA CHARAN, ADV. FOR R1
SRI S.R. DODAWAD, ADV. FOR R2 & R3,
R4 SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA WITH A PRAYER TO DIRECT THE R-1 TO IMMEDIATELY CEASE THE UNFAIR LABOUR PRACTICE METED TO THE PETITIONER AND REINSTATE HIM ON ITS ROLLS AS ITS DIRECT AND PERMANENT EMPLOYEE AND ETC.

IN W.P. NO. 8182/2016

SHRI. P. SRINIVASA,
S / O. SHRI.PENCHALIAH,
AGED AVOUT 39 YEARS,
RESEDING AT NO 36/D,
D.C.A. COMPLEX,
CAMBRIDGE LAYOUT,
ULSOR,
BENGALURU-560 008.

...PETITIONER

(BY SRI CLIFTON D. ROZARIO, ADV.)

AND

1. HIDUSTAN AERONAUTICS LIMITED
REPRESENTED BY THE
GENERAL MANAGER (HR)-BC,
BANGALIRE COMPLEX,
HINDUSTAN AERONAUTICS LIMITED,
VIMANAPURA HAL,
BANGALORE-560 017

2. GOVERNMENT OF INDIA
MINISTRY OF LABOUR AND EMPLOYMENT,
SHRAM SHAKTI BHAWAN,
RAFI MARG, NEW DELHI-110001,
REPRESENTED BY ITS SECRETARY.
3. REGIONAL LABOUR
COMMISSIONER (CENTRAL)
SHRAM SADAN,
3RD CROSS, 3RD MAIN II PHASE,
YESHWANTPUR,
BANGALORE-560 022.
4. M / S. AMPS ELECTRICAL FACILITY
SERVICES PVT. LTD.
REPRESENTED BY ITS
MANAGING DIRECTOR,
NO. 25/1, SRIKANTA MAHAL,
SAMPIGE ROAD, 1ST CROSS,
MALLESHWARAM,
BANGALORE-560 003

...RESPONDENTS

(BY SRI S.R. KAMALA CHARAN, ADV. FOR R1
SRI S.R. DODAWAD, ADV. FOR R2 & R3,
R4 SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA WITH A PRAYER TO DIRECT THE R-1 TO IMMEDIATELY CEASE THE UNFAIR LABOUR PRACTICE METED TO THE PETITIONER AND REINSTATE HIM ON ITS ROLLS AS ITS DIRECT AND PERMANENT EMPLOYEE AND ETC.

THESE PETITIONS COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, THE COURT MADE THE FOLLOWING :

ORDER

The petitioners have filed the present writ petitions seeking for a direction to the respondents to immediately cease the unfair practice meted to the petitioners and reinstate the petitioners on their rolls as their direct and permanent employees, constitute the Central Government Industrial Tribunal and Labour Court expeditiously and take the petitioners back on their rolls and await the resolution of the Industrial Dispute referred to the Central Government Industrial Tribunal and Labour Court before giving effect to the order of termination.

2. After arguing the matter for some time, the learned counsel for the petitioners has filed a memo to withdraw these writ petitions with liberty to approach the State Labour Court after withdrawing the matters pending before the Central Government Industrial Tribunal.

3. The memo is placed on record.

4. The writ petitions are disposed of as withdrawn with liberty as prayed for. All contentions of both the parties are left open to be urged before the State Labour Court in accordance with law.

-Sd/-

Judge

नई दिल्ली, 29 मई, 2017

का.आ. 1363.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक (एचआर)–बीसी, एचएएल लिमिटेड, बेंगलूर व अन्य एवं उनके कर्मचारी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बेंगलूर के पंचाट (संदर्भ सं. 19/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 12.05.2017 को प्राप्त हुआ था।

[सं. एल-42025/03/2017-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 29th May, 2017

S.O. 1363.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID Case No. 19/2015) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the General Manager (HR) -BC, HAL Ltd., Bangalore & others and their workman, which was received by the Central Government on 12.05.2017.

[No. L-42025/03/2017-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
BANGALORE**DATED : 27th April, 2017**PRESENT :** Shri V. S. RAVI, Presiding Officer**ID No. 19/2015****I Party**

Shri. P. Srinivasa,
S/o Shri Penchalliah,
Residing at No. 36/d,
D.C.A. Complex,
Cambridge Layout,
Ulsoor,
Bengaluru – 560008

II Party

1. The General Manager (HR)-BC, HAL Ltd., Bangalore Complex, Vimanapura HAL, Bangalore - 560017
2. The Managing Director, Amps Electrical Facility Service Pvt. Ltd. No. 25/1, SrikantaMahal, Sampige Road, 1st Cross, Malleshwaram, Bangalore - 560003
3. Shri. V. Ananda, Proprietor, No.1, Ananda Ground Floor, 1st Cross, N.R. Layout, Konena Agrahara, Bangalore – 560017
4. The Managing Director, Trendsetters Services Pvt. Ltd, No.1681 36, Hari Singh Nalwa Street, Karol Bagh, New Delhi – 110005
5. The Managing Director, M/s M.P Enterprises and Associates Ltd, Chiranjeev Apartments, II Floor, Office No.2 Karve Road, Eradwane Pune – 411038

AWARD

1. The present ID has been filed by the I Party/Workman claiming relief as follows:-
 - a) To hold that, the First II Party/Management was not justified in terminating the employment of the I Party/Workman with effect from 01.05.2015 and set aside the termination.
 - b) To direct that, the First II Party/Management to reinstate the I Party/workman in his original post, with full back wages, continuity of service and all other consequential benefits and along with costs of these proceedings and
 - c) Pass and other order as deemed fit in the facts and circumstances of the case in the interest of natural justice and equity.
2. Further, the II Party Counsel has filed the memo dated 18.04.2017, by stating as follows:-

“The under signed counsel appearing for II Party in the above case, and the I Party/workman have filed Writ Petition before the Hon’ble High Court of Karnataka regarding their dispute comes before the State Labour Court. Hon’ble High Court permitted the I Party to withdraw the dispute before this Court and as per law they can approach the State Labour Court. This memo is filed for kind perusal of this Court in the interest of justice and equity.”
3. In fact, in Writ Petition No. 8179/2016 C/w. Writ Petition Nos. 8180/2016, 8181/2016 & 8182/2016 (L-RES) dated 22.11.2016, the Hon’ble High Court of Karnataka has passed an order as follows:- “After arguing the matter for some time, the learned counsel for the petitioners has filed a memo to withdraw these writ petitions, with liberty to approach the State Labour Court after withdrawing the matters pending before the Central Government Industrial Tribunal. The memo is placed on record. The writ petition are disposed of as withdrawn with liberty as prayed for. All contentions of both parties are left open to be urged before the State Labour Court in accordance with law.”

4. Consequently, it is found that present ID has to be disposed of, as withdrawn, with liberty to approach the State Labour Court and also, contentions of both parties are left open to be urged before the State Labour Court in accordance with law.

5. Further, taking into consideration the above mentioned facts and circumstances, it is found that the I party cannot seek the reliefs, before this Tribunal. At the same time, this Tribunal is disposing the present case as withdrawn with liberty to approach the State Labour Court and also, all the contentions of both parties are left open to be urged before the State Labour Court in accordance with law. Hence, the following Award is passed:-

AWARD

This Tribunal is disposing the present case as withdrawn with liberty to approach the State Labour Court and also, all the contentions of both parties are left open to be urged before the State Labour Court in accordance with law, as per the order dated 22.11.2016, passed by the Hon'ble High Court in W.P.No. 8179/2016 c/w W.P Nos. 8180/2016, 8181/2016 & 8182/2016 (L-RES). The True copy of the said order passed by the Hon'ble High Court is enclosed with the present award as Annexure-'A', for better and proper understanding, and this Tribunal has not expressed any opinion regarding the various other issues raised by both the parties, as the present matter has been disposed of, as per the above mentioned order of the Hon'ble High Court, and also, without costs, for the above mentioned facts and circumstances.

(Dictated, transcribed, corrected and signed by me on 27th April, 2017)

V. S. RAVI, Presiding Officer

ANNEXURE

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF NOVEMBER, 2016

BEFORE

THE HON'BLE MR. JUSTICE B. VEERAPPA

WRIT PETITION NO. 8179/2016

C/w.

WRIT PETITION NOs. 8180/2016, 8181/2016

& 8182/2016 (L-RES)

IN W.P. NO. 8179/2016

BETWEEN :

SHRI R. PANDURANGA,
S/O. SHRI RANGASWAMY,
AGED ABOUT 40 YEARS,
RESIDING AT NO. 94,
MUTHASANDRA ROAD,
NEAR LAKSHMI TEMPLE,
MADURANAGAR, 2ND STAGE,
VARTHUR, BANGALORE NOTRH,
BENGALURU-560 008

...PETITIONER

(BY SRI CLIFTON D. ROZARIO, ADV.)

AND

1. HIDUSTAN AERONAUTICS LIMITED
REPRESENTED BY THE
GENERAL MANAGER (HR)- BC,
BANGALORE COMPLEX,
HINDUSTAN AERONAUTICS LIMITED,
VIMANAPURA HAL,
BANGALORE-560 017
2. GOVERNMENT OF INDIA
MINISTRY OF LABOUR AND EMPLOYMENT,
SHRAM SHAKTI BHAWAN,

RAFI MARG, NEW DELHI-110001,
REPRESENTED BY ITS SECRETARY.

3. REGIONAL LABOUR
COMMISSIONER (CENTRAL)
SHRAM SADAN,
3RD CROSS, 3RD MAIN II PHASE,
YESHWANTPUR,
BANGALORE-560 022.
4. SHRI. V. ANANDA
PROPRIETOR,
NO.1, 'ANANDA' GROUND FLOOR,
1ST CROSS, N.R. LAYOUT,
KONENA AGRAHARA,
BANGALORE-560 017.

...RESPONDENTS

(BY SRI S.R. DODAWAD, ADV. FOR R2 & R3;
R1 & R4 NOTICE NOT ORDERED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA WITH A PRAYER TO DIRECT THE R-1 TO IMMEDIATELY CEASE THE UNFAIR LABOUR PRACTICE METED TO THE PETITIONER AND REINSTATE HIM ON ITS ROLLS AS ITS DIRECT AND PERMANENT EMPLOYEE AND ETC.

IN W.P. NO. 8180/2016

SHRI NARASIMHA A,
S/O. SHRI NARASAIYA A,
AGED ABOUT 41 YEARS,
RESIDING AT NO. C.D.10,
2ND CROSS, SHIRAM NAGAR,
MURUGESH PALYA,
OLD AIRPORT ROAD,
BANGALORE-560 017

...PETITIONER

(BY SRI CLIFTON D. ROZARIO, ADV.)

AND:

1. HINDUSTAN AERONAUTICS LIMITED
REPRESENTED BY THE
GENERAL MANAGER (HR)-BC,
BANGALORE COMPLEX,
HINDUSTAN AERONAUTICS LIMITED,
VIMANAPURA HAL,
BANGALORE-560 017
2. GOVERNMENT OF INDIA
MINISTRY OF LABOUR EMPLOYMENT,
SHRAM SHAKTI BHAWAN,
RAFI MARG, NEW DELHI-110001,
REPRESENTED BY ITS SECRETARY.
3. REGIONAL LABOUR
COMMISSIONER (CENTRAL)
SHRAM SADAN,
3RD CROSS, 3RD MAIN II PHASE,
YESHWANTPUR,
BANGALORE-560 022.
4. M/S. M. P. ENTERPRISES AND
ASSOCIATES LTD.
REPRESENTED BY ITS
MANAGING DIRECTOR,
CHIRANJEEV APARTMENTS,

II FLOOR, OFFICE NO. 2,
KARVE ROAD,
ERADWANE,
PUNE-411 039.

...RESPONDENTS

(BY SRI S.R. KAMALA CHARAN, ADV. FOR R1;
SRI S.R.DODAWAD, ADV. FOR R2 & R3,
SRI K.G.SHANTHAIAH, ADV. FOR R4

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA WITH A PRAYER TO DIRECT THE R-1 TO IMMEDIATELY CEASE THE UNFAIR LABOUR PRATICE METED TO THE PETITIONER AND REINSTATE HIM ON ITS ROLLS AS ITS DIRECT AND PERMANENT EMPLOYEE AND ETC.

IN W.P. NO. 8181/2016

BETWEEN :

SHRI V. MUNIRAJA,
S/O. SHRI VENKATA GIRIYAPPA,
AGED ABOUT 48 YEARS,
RESIDING AT NO. 36,
CHATTARJEE BUILDING,
1ST CROSS, NEW BAIYYAPPANAHALLI,
INDIRANAGAR, BENGALURU-560 038.

...PETITIONER

(BY SRI CLIFTON D. ROZRIO, ADV.)

AND

1. HINDUSTAN AERONAUTICS LIMITED
REPRESENTED BY THE
GENERAL MANAGER (HR)-BC,
BANGALORE COMPLEX,
HINDUSTAN AERONAUTICS LIMITED,
VIMANAPURA HAL,
BANGALORE-560 017
2. GOVERNMENT OF INDIA
MINISTRY OF LABOUR EMPLOYMENT,
SHRAM SHAKTI BHAWAN,
RAFI MARG, NEW DELHI-110001,
REPRESENTED BY ITS SECRETARY.
3. REGIONAL LABOUR
COMMISSIONER (CENTRAL)
SHRAM SADAN,
3RD CROSS, 3RD MAIN II PHASE,
YESHWANTPUR,
BANGALORE-560 022.
4. M / S. AMPS ELECTRICAL FACILITY
SERVICES PVT. LTD.
REPRESENTED BY ITS
MANAGING DIRECROR,
NO. 25 /1, SRIKANTA MAHAL,
SAMPIGE ROAD, 1ST CROSS,
MALLESHWARAM,
BANGALORE-560 003

...RESPONDENTS

(BY SRI S.R. KAMALA CHARAN, ADV. FOR R1
SRI S.R. DODAWAD, ADV. FOR R2 & R3,
R4 SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA WITH A PRAYER TO DIRECT THE R-1 TO IMMEDIATELY CEASE THE UNFAIR LABOUR PRACTICE METED TO THE PETITIONER AND REINSTATE HIM ON ITS ROLLS AS ITS DIRECT AND PERMANENT EMPLOYEE AND ETC.

IN W.P. NO. 8182/2016

SHRI. P. SRINIVASA,
S / O. SHRI. PENCHALIAH,
AGED ABOUT 39 YEARS,
RESEDING AT NO 36/D,
D.C.A. COMPLEX,
CAMBRIDGE LAYOUT,
ULSOOR,
BENGALURU-560 008.

...PETITIONER

(BY SRI CLIFTON D. ROZARIO, ADV.)

AND

1. HINDUSTAN AERONAUTICS LIMITED
REPRESENTED BY THE
GENERAL MANAGER (HR)-BC,
BANGALORE COMPLEX,
HINDUSTAN AERONAUTICS LIMITED,
VIMANAPURA HAL,
BANGALORE-560 017
2. GOVERNMENT OF INDIA
MINISTRY OF LABOUR AND EMPLOYMENT,
SHRAM SHAKTI BHAWAN,
RAFI MARG, NEW DELHI-110001,
REPRESENTED BY ITS SECRETARY.
3. REGIONAL LABOUR
COMMISSIONER (CENTRAL)
SHRAM SADAN,
3RD CROSS, 3RD MAIN II PHASE,
YESHWANTPUR,
BANGALORE-560 022.
4. M / S. AMPS ELECTRICAL FACILITY
SERVICES PVT. LTD.
REPRESENTED BY ITS
MANAGING DIRECTOR,
NO. 25/1, SRIKANT MAHAL,
SAMPIGE ROAD, 1ST CROSS,
MALLESHWARAM,
BANGALORE-560 003

...RESPONDENTS

(BY SRI S.R. KAMALA CHARAN, ADV. FOR R1
SRI S.R. DODAWAD, ADV. FOR R2 & R3,
R4 SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA WITH A PRAYER TO DIRECT THE R-1 TO IMMEDIATELY CEASE THE UNFAIR LABOUR PRACTICE METED TO THE PETITIONER AND REINSTATE HIM ON ITS ROLLS AS ITS DIRECT AND PERMANENT EMPLOYEE AND ETC.

THESE PETITIONS COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, THE COURT MADE THE FOLLOWING :

ORDER

The petitioners have filed the present writ petitions seeking for a direction to the respondents to immediately cease the unfair practice meted to the petitioners and reinstate the petitioners on their rolls as their direct and permanent employees, constitute the Central Government Industrial Tribunal and Labour Court expeditiously and take the

petitioners back on their rolls and await the resolution of the Industrial Dispute referred to the Central Government Industrial Tribunal and Labour Court before giving effect to the order of termination.

2. After arguing the matter for some time, the learned counsel for the petitioners has filed a memo to withdraw these writ petitions with liberty to approach the State Labour Court after withdrawing the matters pending before the Central Government Industrial Tribunal.

3. The memo is placed on record.

4. The writ petitions are disposed of as withdrawn with liberty as prayed for. All contentions of both the parties are left open to be urged before the State Labour Court in accordance with law.

-Sd/-

Judge

नई दिल्ली, 29 मई, 2017

का.आ. 1364.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक (एचआर)-बीसी, एचएएल लिमिटेड, बेंगलोर व अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बेंगलोर के पंचाट (संदर्भ सं. 20/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 12.05.2017 को प्राप्त हुआ था।

[सं. एल-42025/03/2017-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 29th May, 2017

S.O. 1364.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID Case No. 20/2015) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the General Manager (HR) -BC, HAL Ltd., Bangalore & others and their workman, which was received by the Central Government on 12.05.2017.

[No. L-42025/03/2017-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 27th April, 2017

PRESENT : Shri V. S. RAVI, Presiding Officer

ID No. 20/2015

I Party

Shri. Narasimha A.,
S/o Narasaiya A.,
Residing at No. C.D. 10, 2nd Cross,
Shiram Nagar, Murugesh Palya,
Old Airport Road,
Bengaluru – 560017

II Party

1. The General Manager (HR)-BC, HAL Ltd., Bangalore Complex, Vimanapura HAL, Bangalore - 560017
2. The Managing Director, Amps Electrical Facility Service Pvt. Ltd. No. 25/1, SrikantaMahal, Sampige Road, 1st Cross, Malleshwaram, Bangalore - 560003
3. Shri. V. Ananda, Proprietor, No.1, Ananda Ground Floor, 1st Cross, N.R. Layout, Konena Agrahara, Bangalore – 560017
4. The Managing Director, Trendsetters Services Pvt. Ltd, No.1681 36, Hari Singh Nalwa Street, KarolaBagh New Delhi – 110005
5. The Managing Director, M/s M.P Enterprises and Associates Ltd, Chiranjeev Apartments, II Floor, Office No.2 Karve Road, Eradwane Pune – 411038

AWARD

1. The present ID has been filed by the I Party/Workman claiming relief as follows:-
 - a) To hold that, the First II Party/Management was not justified in terminating the employment of the I Party/Workman with effect from 01.05.2015 and set aside the termination.
 - b) To direct that, the First II Party/Management to reinstate the I Party/workman in his original post, with full back wages, continuity of service and all other consequential benefits and along with costs of these proceedings and
 - c) Pass and other order as deemed fit in the facts and circumstances of the case in the interest of natural justice and equity.
2. Further, the II Party Counsel has filed the memo dated 18.04.2017, by stating as follows:-

“The under signed counsel appearing for II Party in the above case, and the I Party/workman have filed Writ Petition before the Hon’ble High Court of Karnataka regarding their dispute comes before the State Labour Court. Hon’ble High Court permitted the I Party to withdraw the dispute before this Court and as per law they can approach the State Labour Court. This memo is filed for kind perusal of this Court in the interest of justice and equity.”
3. Infact, in Writ Petition No. 8179/2016 C/w. Writ Petition Nos. 8180/2016, 8181/2016 & 8182/2016 (L-RES) dated 22.11.2016, the Hon’ble High Court of Karnataka has passed an order as follows:- “After arguing the matter for some time, the learned counsel for the petitioners has filed a memo to withdraw these writ petitions, with liberty to approach the State Labour Court after withdrawing the matters pending before the Central Government Industrial Tribunal. The memo is placed on record. The writ petition are disposed of as withdrawn with liberty as prayed for. All contentions of both parties are left open to be urged before the State Labour Court in accordance with law.”
4. Consequently, it is found that present ID has to be disposed of, as withdrawn, with liberty to approach the State Labour Court and also, contentions of both parties are left open to be urged before the State Labour Court in accordance with law.
5. Further, taking into consideration the above mentioned facts and circumstances, it is found that the I party cannot seek the reliefs, before this Tribunal. At the same time, this Tribunal is disposing the present case as withdrawn with liberty to approach the State Labour Court and also, all the contentions of both parties are left open to be urged before the State Labour Court in accordance with law. Hence, the following Award is passed:-

AWARD

This Tribunal is disposing the present case as withdrawn with liberty to approach the State Labour Court and also, all the contentions of both parties are left open to be urged before the State Labour Court in accordance with law, as per the order dated 22.11.2016, passed by the Hon’ble High Court in W.P.No. 8179/2016 c/w W.P Nos. 8180/2016, 8181/2016 & 8182/2016 (L-RES). The True copy of the said order passed by the Hon’ble High Court is enclosed with the present award as Annexure-‘A’, for better and proper understanding, and this Tribunal has not expressed any opinion regarding the various other issues raised by both the parties, as the present matter has been disposed of, as per the above mentioned order of the Hon’ble High Court, and also, without costs, for the above mentioned facts and circumstances.

(Dictated, transcribed, corrected and signed by me on 27th April, 2017)

V. S. RAVI, Presiding Officer

ANNEXURE

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF NOVEMBER, 2016

BEFORE

THE HON’BLE MR. JUSTICE B. VEERAPA

WRIT PETITION NO. 8179/2016

C/w.

WRIT PETITION NOS. 8180/2016, 8181/2016

& 8182/2016 (L-RES)

IN W.P. NO. 8179/2016**BETWEEN :**

SHRI R. PANDURANGA,
S/O. SHRI RANGASWAMY,
AGED ABOUT 40 YEARS,
RESIDING AT NO. 94,
MUTHASANDRA ROAD,
NEAR LAKSHMI TEMPLE,
MADURANAGAR, 2ND STAGE,
VARTHUR, BANGALORE NOTRH,
BENGALURU-560 008

...PETITIONER

(BY SRI CLIFTON D. ROZARIO, ADV.)

AND

1. HIDUSTAN AERONATICS LIMITED
REPRESENTED BY THE
GENERAL MANAGER (HR)- BC,
BANGALORE COMPLEX,
HINDUSTAN AERONAUTICS LIMITED,
VIMANAPURA HAL,
BANGALORE-560 017
2. GOVERNMENT OF INDIA
MINISTRY OF LABOUR AND EMPLOYMENT,
SHRAM SHAKTI BHAWAN,
RAFI MARG, NEW DELHI-110001,
REPRESENTED BY ITS SECRETARY.
3. REGIONAL LABOUR
COMMISSIONER (CENTRAL)
SHRAM SADAN,
3RD CROSS, 3RD MAIN II PHASE,
YESHWANTPUR,
BANGALORE-560 022.
4. SHRI. V. ANANDA
PROPRIETOR,
NO.1, 'ANANDA' GROUND FLOOR,
1ST CROSS, N.R. LAYOUT,
KONENA AGRAHARA,
BANGALORE-560 017.

...RESPONDENTS

(BY SRI S.R. DODAWAD, ADV. FOR R2 & R3;
R1 & R4 NOTICE NOT ORDERED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA WITH A PRAYER TO DIRECT THE R-1 TO IMMEDIATELY CEASE THE UNFAIR LABOUR PRATICE METED TO THE PETITIONER AND REINSTATE HIM ON ITS ROLLS AS ITS DIRECT AND PERMANENT EMPLOYEE AND ETC.

IN W.P. NO. 8180/2016

SHRI NARASIMHA A,
S/O. SHRI NARASAIYA A,
AGED ABOUT 41 YEARS,
RESIDING AT NO. C.D.10,
2ND CROSS, SHIRAM NAGAR,
MURUGESH PALYA,
OLD AIRPORT ROAD,
BANGALORE-560 017

...PETITIONER

(BY SRI CLIFTON D. ROZARIO, ADV.)

AND:

1. HINDUSTAN AERONAUTICS LIMITED
REPRESENTED BY THE
GENERAL MANAGER (HR)-BC,
BANGALORE COMPLEX,
HINDUSTAN AERONAUTICS LIMITED,
VIMANAPURA HAL,
BANGALORE-560 017
2. GOVERNMENT OF INDIA
MINISTRY OF LABOUR EMPLOYMENT,
SHRAM SHAKTI BHAWAN,
RAFI MARG, NEW DELHI-110001,
REPRESENTED BY ITS SECRETARY.
3. REGIONAL LABOUR
COMMISSIONER (CENTRAL)
SHRAM SADAN,
3RD CROSS, 3RD MAIN II PHASE,
YESHWANTPUR,
BANGALORE-560 022.
4. M/S. M. P. ENTERPRISES AND
ASSOCIATES LTD.
REPRESENTED BY ITS
MANAGING DIRECTOR,
CHIRANJEEV APARTMENTS,
II FLOOR, OFFICE NO. 2,
KARVE ROAD,
ERADWANE,
PUNE-411 039.

...RESPONDENTS

(BY SRI S.R. KARALA CHARAN, ADV. FOR R1;
SRI S.R.DODAWAD, ADV. FOR R2 & R3,
SRI K.G.SHANTHAIAH, ADV. FOR R4

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA WITH A PRAYER TO DIRECT THE R-1 TO IMMEDIATELY CEASE THE UNFAIR LABOUR PRACTICE METED TO THE PETITIONER AND REINSTATE HIM ON ITS ROLLS AS ITS DIRECT AND PERMANENT EMPLOYEE AND ETC.

IN W.P. NO. 8181/2016**BETWEEN :**

SHRI V. MUNIRAJA,
S/O. SHRI VENKATA GIRIYAPPA,
AGED ABOUT 48 YEARS,
RESIDING AT NO. 36,
CHATTARJEE BULLDING,
1ST CROSS, NEW BAIYYAPPANAHALLI,
INDIRANAGAR, BENGALURU-560 038.

...PETITIONER

(BY SRI CLIFTON D. ROZRIO, ADV.)

AND

1. HINDUSTAN AERONAUTICS LIMITED
REPRESENTED BY THE
GENERAL MANAGER (HR)-BC,
BANGALORE COMPLEX,
HINDUSTAN AERONAUTICS LIMITED,
VIMANAPURA HAL,
BANGALORE-560 017

2. GOVERNMENT OF INDIA
MINISTRY OF LABOUR AND EMPLOYMENT,
SHRAM SHAKTI BHAWAN,
RAFI MARG, NEW DELHI-110001,
REPRESENTED BY ITS SECRETARY.
3. REGIONAL LABOUR
COMMISSIONER (CENTRAL)
SHRAM SADAN,
3RD CROSS, 3RD MAIN II PHASE,
YESHWANTPUR,
BANGALORE-560 022.
4. M / S. AMPS ELECTRICAL FACILITY
SERVICES PVT. LTD.
REPRESENTED BY ITS
MANAGING DIRECTOR,
NO. 25 /1, SRIKANT MAHAL,
SAMPIGE ROAD, 1ST CROSS,
MALLESHWARAM,
BANGALORE-560 003

...RESPONDENTS

(BY SRI S.R. KAMALA CHARAN, ADV. FOR R1
SRI S.R. DODAWAD, ADV. FOR R2 & R3,
R4 SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA WITH A PRAYER TO DIRECT THE R-1 TO IMMEDIATELY CEASE THE UNFAIR LABOUR PRACTICE METED TO THE PETITIONER AND REINSTATE HIM ON ITS ROLLS AS ITS DIRECT AND PERMANENT EMPLOYEE AND ETC.

IN W.P. NO. 8182/2016

SHRI. P. SRINIVASA,
S / O. SHRI.PENCHALIAH,
AGED ABOUT 39 YEARS,
RESIDING AT NO 36/D,
D.C.A. COMPLEX,
CAMBRIDGE LAYOUT,
ULSOR,
BENGALURU-560 008.

...PETITIONER

(BY SRI CLIFTON D. ROZARIO, ADV.)

AND

1. HINDUSTAN AERONAUTICS LIMITED
REPRESENTED BY THE
GENERAL MANAGER (HR)-BC,
BANGALORE COMPLEX,
HINDUSTAN AERONAUTICS LIMITED,
VIMANAPURA HAL,
BANGALORE-560 017
2. GOVERNMENT OF INDIA
MINISTRY OF LABOUR AND EMPLOYMENT,
SHRAM SHAKTI BHAWAN,
RAFI MARG, NEW DELHI-110001,
REPRESENTED BY ITS SECRETARY.
3. REGIONAL LABOUR
COMMISSIONER (CENTRAL)
SHRAM SADAN,
3RD CROSS, 3RD MAIN II PHASE,
YESHWANTPUR,
BANGALORE-560 022.

4. M / S. AMPS ELECTRICAL FACILITY
SERVICES PVT. LTD.
REPRESENTED BY ITS
MANAGING DIRECROR,
NO. 25/1, SRIKANT MAHAL,
SAMPIGE ROAD, 1ST CROSS,
MALLESHWARAM,
BANGALORE-560 003

...RESPONDENTS

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SRI S.R. DODAWAD, ADV. FOR R2 & R3,
R4 SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA WITH A PRAYER TO DIRECT THE R-1 TO IMMEDIATELY CEASE THE UNFAIR LABOUR PRATICE METED TO THE PETITIONER AND REINSTATE HIM ON ITS ROLLS AS ITS DIRECT AND PERMANENT EMPLOYEE AND ETC.

THESE PETITIONS COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, THE COURT MADE THE FOLLOWING :

ORDER

The petitioners have filed the present writ petitions seeking for a direction to the respondents to immediately cease the unfair practice meted to the petitioners and reinstate the petitioners on their rolls as their direct and permanent employees, constitute the Central Government Industrial Tribunal and Labour Court expeditiously and take the petitioners back on their rolls and await the resolution of the Industrial Dispute referred to the Central Government Industrial Tribunal and Labour Court before giving effect to the order of termination.

2. After arguing the matter for some time, the learned counsel for the petitioners has filed a memo to withdraw these writ petitions with liberty to approach the State Labour Court after withdrawing the matters pending before the Central Government Industrial Tribunal.
3. The memo is placed on record.
4. The writ petitions are disposed of as withdrawn with liberty as prayed for. All contentions of both the parties are left open to be urged before the State Labour Court in accordance with law.

-Sd/-

Judge

नई दिल्ली, 29 मई, 2017

का.आ. 1365.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार निदेशक, (पी), एनपीसीआईएल, तारापुर व अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. 2, मुंबई के पंचाट (संदर्भ सं. 2/11 ऑफ 2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 05.05.2017 को प्राप्त हुआ था।

[सं. एल-42011/136/2014-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 29th May, 2017

S.O. 1365.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID Case No. 2/11 of 2015) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the Director, (P), NPCIL, Tarapur & Others and their workman, which was received by the Central Government on 05.05.2017.

[No. L-42011/136/2014-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.2, MUMBAI****PRESENT : M.V. DESHPANDE, Presiding Officer****REFERENCE NO. CGIT-2/11 of 2015**

EMPLOYERS IN RELATION TO THE MANAGEMENT OF

- (1) NPCIL, TARAPUR
- (2) STN DIRECTOR, TAPS
- (3) GRAMPANCHAYAT POPHARAN & GRAMPANCHAYAT AKARPATTI

The Director (P)

NPCIL

Tarapur 401 504.

The Station Director

TAPS 1 & 2 & 3 & 4, T.M./Site

NPCIL

Tarapur 401 504.

The Secretary

Grampanchayat Popharan & Grampanchayat Akarpatti

Tal. Palghar

Distt. thane 401 502.

AND

THEIR WORKMEN

The Secretary

Stanik Kamgar Sanghatana

Tarapur

Thane 401 502

APPEARANCES :

FOR THE EMPLOYERS : M/s. Rajesh Kothari & Co., Advocates

FOR THE UNION : No appearance

Mumbai, dated the 25th April, 2017**AWARD**

The Government of India, Ministry of Labour & Employment by its Order No.L-42011/136/2014-IR (DU), dated 19.01.2015 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

“Whether the demand of the contract workmen employed by the management of M/s. NPCIL through contractor for fixing their wages at the level of Rs.20,000/- with 15% annual increase and the facility of leave wages is justified? If so, to what relief the workmen are entitled to ?”

2. After receipt of the Reference, notices were issued to both the parties. Matter was adjourned on several occasions for filing Statement of Claim by second party/Union. Second party/Union neither appeared before this Tribunal nor filed Statement of claim. Without Statement of claim, the Reference cannot be decided on merits and the same deserves to be dismissed. Hence, I pass the following order:

ORDER

Reference stands dismissed for want of prosecution.

Date: 25.04.2017

M. V. DESHPANDE, Presiding Officer/Judge

नई दिल्ली, 30 मई, 2017

का.आ. 1366.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स भारतीय जीवन बीमा निगम के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 31/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.05.2017 को प्राप्त हुआ था।

[सं. एल-17012/25/2013-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 30th May, 2017

S.O. 1366.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 31/2014) of the Central Government Industrial Tribunal/Labour Court, Kanpur now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Life Insurance Corporation of India and their workman, which was received by the Central Government on 23.05.2017.

[No. L-17012/25/2013-IR (M)]

RAJESH KUMAR, Under Secy.

ANNEXURE

**BEFORE THE PRESIDING OFFICER, HJS, CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM- LABOUR COURT, KANPUR**

Industrial Dispute No. 31 of 2014

Between :

Shri Virendra Kumar S/o Sh. Vedmani
R/o 47/30, Kachchi Sarak,
Daryaganj, Allahabad
ALLAHABAD

And

1. The General Manager,
LIC of India, Zonal Office,
Jeeven Vikash, 16/98,
M.G. Road,
Kanpur-208001.
2. The Divisional Manager (P&IR)
LIC, Divisional Office,
Jeeven Prakash, 172-A/40, M.G.Road,
Civil Lines,
ALLAHABAD

AWARD

1. Central Government, Mol & Employment, New Delhi, vide notification No. L-17012/25/2013-IR(M) dated 17.02.2014, has referred the following dispute to this tribunal.
2. “Whether the action of the management of Life Insurance Corporation of India, in terminating the services of Sh. Virendra Kumar, from the post of Sub Staff w.e.f. 24.02.2011 without following the procedure laid down under section 25 F of Industrial Dispute Act, 1947, is legal and justified? If not, to what relief the concerned workman is entitled for and from which date?”
3. The worker Shri Virendra Kumar has filed claim statement with the prayer that management may be directed to take him back in service and has filed several photo copies of documents.
4. The management in his written statement denied the claim of worker on the ground that worker is appointed purely on temporary basis for a fixed period of 85 days from 04.08.2011 to 27.10.2011 and his services came to end automatically by efflux of time and has filed copy of his appointment letter.

5. Worker has not filed any rejoinder nor has appeared to give his evidence. Management has also not given any evidence.
6. I heard learned authorized representative for the management and none appeared on behalf of worker to make his submissions.
7. From the perusal of appointment letter filed by worker as well as management is clear that worker was appointed for a fixed period as such he cannot claim any benefit after laps of time.
8. Worker has only filed photo copy of documents and has not appeared in witness box to prove his pleadings assertions and documents, therefore photo copies of documents cannot be read without proof.
9. From above discussion tribunal is of the view that worker has failed to prove his case and is not entitled to get any relief.
10. The reference is therefore decided against the workman and in favor of the management.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 30 मई, 2017

का.आ. 1367.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स इण्डियन ऑयल कॉर्पोरेशन लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 99/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.05.2017 को प्राप्त हुआ था।

[सं. एल-30012/15/2014-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 30th May, 2017

S.O. 1367.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 99/2014) of the Central Government Industrial Tribunal/Labour Court, Kanpur now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Indian Oil Corporation Ltd. and their workman, which was received by the Central Government on 23.05.2017.

[No. L-30012/15/2014-IR (M)]

RAJESH KUMAR, Under Secy.

ANNEXURE

BEFORE SRI SHUBHENDRA KUMAR, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT/LOK ADALAT, KANPUR

Industrial Dispute No. 99 of 2014

Between :

Shri Kamal Singh son of Shri Prem Singh
Village & Post Turakiya,
Tehsil Kirawali,
Distt. Agra (UP)

And

The Executive Director,
Indian Oil Corp Ltd,
Mathura Refinery,
Mathura-281005

AWARD

1. Central Government, MoL, vide notification No. L-30012/15/2014-IR (M), dated 27.08.2014, has referred the following dispute for adjudication to this tribunal.

2. Whether the action of the management of Indian Oil Corporation Ltd Mathura Refinery, Mathura, M/s Balaji services, New Delhi in terminating the services of Sri Kamal Singh son of Shri Prem Singh workman w.e.f. April, 2010 is just fair & legal? If not what relief the workman concerned is entitled to?
3. In the instant case a reference was referred to Central Government Industrial Tribunal cum Labor Court, Kanpur, whereupon notice to the claimant was issued under registered post by CGIT Kanpur for filing his claim in the case.
4. On 26.04.2017, when the case was taken up neither the worker turned up nor filed his claim statement despite availing of sufficient opportunities. Therefore, it appears that the worker is not interested in prosecuting his claim before this tribunal. As such having no option left with the tribunal except to give an award in the case against the worker for want of pleadings and proof.
5. For the reasons given above, award is passed against the worker holding that the worker is not entitled to any relief pursuant to the present reference order for want of pleadings and proof.
6. Reference is answered accordingly against the worker.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 30 मई, 2017

का.आ. 1368.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 क अनुसरण में केन्द्रीय सरकार मैसर्स एसीसी लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 94/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.05.2017 को प्राप्त हुआ था।

[सं. एल-29011/26/2010-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 30th May, 2017

S.O. 1368.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 94/2011) of the Central Government Industrial Tribunal/Labour Court, Kanpur now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. ACC Ltd. and their workman, which was received by the Central Government on 23.05.2017.

[No. L-29011/26/2010-IR (M)]

RAJESH KUMAR, Under Secy.

ANNEXURE

BEFORE SRI SHUBHENDRA KUMAR, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOR COURT, KANPUR

Industrial Dispute No. 94 of 2011

Between :

The State Vice President,
Bhartiya Mazdoor Sngh,
Madupura Station Road,
Aligarh.

And

The Sales Head
M/s ACC Ltd, Cement House,
121 Maharshi Karve Road,
Mumbai. 20.

AWARD

1. Central Government, Mol, New Delhi, vide notification no. L-29011/26/2010-IR (M) dated 18.10.2011 has referred the following dispute for adjudication to this tribunal.
2. Whether the action of the management of M/s ACC Ltd in not regularizing and terminating the service of Sri Deepak Sharma w.e.f. 24.04.2009 is just and proper? If not what relief the workman concerned is entitled to?
3. Case of the worker in short is that he along with 15 others in the year 2008 was appointed on the basis of interview at the post of CSR/TR. As per information given to him by the authorities of the company worker was likely to be paid his wages at Rs. 6000/- per month plus conveyance allowance plus mobile charges. No appointment letter was issued in favor of the worker by the company. He was never given his wages in time rather he received his wages in between 15 to 20th day each month. As an industrial dispute has been raised by the worker against the opposite party for committing unfair labor practice so being annoyed the services of the worker were dispensed with without complying with the provision of the industrial Disputes Act, 1947. On these grounds it has been prayed that the action of the management be set aside and he be reinstated in the service of the management with full back wages, continuity of service and with all consequential benefits.
4. The management in its reply refuted the claim of the worker on a variety of grounds various posts in the opposite party are filled up at the level of corporate office and no officer of any branch or sales office is competent to make such appointments on regular basis. The opposite party is no more concerned with Sri Deepak Sharma in respect of whom the applicant union has submitted its claim in regard to regularization and reinstatement in service. There is no relationship of master and servant between the employer and the employee hence present claim is not maintainable and is liable to be rejected. Worker is stranger hence question of termination of his service by the opposite party does not arise. Worker at no point of time was appointed or engaged by the opposite party in any capacity and as he was not appointed at the level of Regional Head, therefore, question of deciding and informing about salary is beyond imagination. It is also alleged by the opposite party that the entire allegations raised in the claim petition is wholly misconceived and misleading and date of termination 24.04.09 is wholly imaginary and there is no cause of action in favor of the worker. Therefore, the claim submitted by Deepak Sharma in regard to his reinstatement and regularization is neither maintainable nor legally tenable under law being he was not employee of the opposite party. On the basis of above it has been pleaded that the claim of the worker is liable to be rejected being devoid of merit and it should be rejected.
5. Rejoinder has also been filed in the case but nothing new has been detailed therein.
6. Representative for the worker has filled his own affidavit in support of the claim petition. He has also filed photocopies of 58 documents in support of the claim petition.
7. Worker has moved application paper no. 7/1-3 supported with affidavit for summoning the documents from the management which was decided on 06.08.15 and thereafter representative for the worker has given affidavit paper no. 14/1 with application 14/2-3 stating that due to mutual understanding with the management and representative of the worker, worker does not want to proceed with the case and requested to stop the proceedings and deciding the case accordingly. The application was not opposed by the management.
8. Heard the parties representative.
9. Considering the facts narrated in the application moved by the representative for the worker that the worker does not want to proceed with the case therefore, reference is decided against the worker and in favor of the management.
10. Reference is answered accordingly.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 30 मई, 2017

का.आ. 1369.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स अवीवा लाईफ इंश्योरेंस कं. लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोटा (राजस्थान) के पंचाट (संदर्भ संख्या 13/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.05.2017 को प्राप्त हुआ था।

[सं. एल-17012/4/2009-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 30th May, 2017

S.O. 1369.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 13/2011) of the Central Government Industrial Tribunal/Labour Court, Kota (Rajasthan) now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Aviva Life Insurance Co. Ltd. and their workman, which was received by the Central Government on 23.05.2017.

[No. L-17012/4/2009-IR (M)]

RAJESH KUMAR, Under Secy.

अनुबंध

न्यायाधीश, औद्योगिक न्यायाधिकरण (केन्द्रीय) कोटा, (राज.)

पीठासीन अधिकारी— श्री जगमोहन शर्मा, आर.एच.जे.एस.

निर्देश प्रकरण क्रमांक : औ.न्या. (केन्द्रीय)—13/2011

दिनांक स्थापित: 8/8/2011

प्रसंग : भारत सरकार, श्रम मंत्रालय, नई दिल्ली के आदेश क्र. एल-17012/4/2009-आईआर (एम) दि. 24/6/2011

निर्देश/विवाद अन्तर्गत धारा 10(1)(घ) एवं उपधारा 2(क) औद्योगिक विवाद अधिनियम, 1947

मध्य :

विजय गौतम पुत्र नन्दकिशोर गौतम द्वारा जनरल सेक्रेटरी,
हिन्द मजदूर सभा, बंगाली कोलोनी, छावनी, कोटा

—प्रार्थी

एवं

मैनेजर, अविवा लाईफ इंश्योरेंस कंपनी लिमिटेड, गुडगांव

—अप्रार्थी नियोजक

उपस्थित :

प्रार्थी की ओर से प्रतिनिधि : श्री पुरुषोत्तम दाधीच

अप्रार्थी नियोजक की ओर से प्रतिनिधि : श्री नरपत सिंह राजावत

अधिनिर्णय दिनांक : 14/12/2016

::अधिनिर्णय::

भारत सरकार, श्रम मंत्रालय, नई दिल्ली के प्रासांगिक आदेश दिनांक 24/6/2011 के जरिये निम्न निर्देश विवाद, औद्योगिक विवाद अधिनियम, 1947 (जिसे तदुपरान्त "अधिनियम" से सम्बोधित किया जावेगा) की धारा 10(1)(घ) एवं उपधारा 2(क) के अन्तर्गत इस न्यायालय को अधिनिर्णयार्थ सम्प्रेषित किया गया है:—

"Whether the demand of the workman Shri Vijay Gautam from the management of Aviva Life Insurance Co. Ltd. for reinstatement with full back wages is just and fair? If so, to what relief the workman is entitled?"

2. निर्देश/विवाद, न्यायाधिकरण में प्राप्त होने पर पंजीबद्ध उपरान्त पक्षकारों को सूचना/नोटिस जारी कर विधिवत अवगत करवाया गया।

3. प्रार्थी श्रमिक की ओर से क्लेम स्टेटमेन्ट न्यायाधिकरण के समक्ष प्रस्तुत कर व्यक्त किया गया है कि प्रार्थी को अप्रार्थी प्रबन्धक, अविवा लाईफ इंश्योरेंस कंपनी लि. अविवा टावर सेक्टर-43, गुडगांव द्वारा पत्र दि. 1 मई, 2007 के द्वारा सेल्स मैनेजर के पद पर कोटा में नियोजित किया गया था। प्रार्थी द्वारा नियोजक को अवकाश प्रार्थना-पत्र के जरिये दि. 3/12/07 से 7/12/07 तक अवकाश की मांग कर अवकाश पर चला गया, तदुपरान्त 17/1/07 तक अवकाश बढ़ाने की मांग की, परन्तु अवकाश बढ़ाना अस्वीकृत कर तीन दिन में ड्यूटी जोईन नहीं करने की सूरत में सेवा से हटाने की कार्यवाही किये जाने हेतु सूचित किया। पुनः 30/12/07 तक अवकाश स्वीकृत किये जाने वाबत ई-मेल के माध्यम से प्रार्थना की, किन्तु उपस्थित होने पर 1/1/08 से कोटा कार्यालय में कार्य करने से बन्द कर दिया। तदुपरान्त 17/1/08 के पत्र द्वारा उसे इस तिथि से सेवा से हटाया जाने बाबत सूचित किया गया। प्रार्थी अपने द्वारा कार्य संचालन अनुसार अधिनियमान्तर्गत कर्मकार की परिभाषा में आता है। प्रार्थी को सेवा से हटाया जाना से पूर्व अधिनियम की धारा 25-एफ, जी व एच के अज्ञापक प्रावधानों की पालना नहीं की गयी जिस कारण प्रार्थी का मामला अवैध छंटनी की परिभाषा में आता है। अन्त में प्रार्थी द्वारा उक्त प्रकार से सेवा से हटाया जाना अनुचित मानते हुए पिछले सम्पूर्ण वेतन व लाभों सहित सेवामें बहाल किये जाने की प्रार्थना की गयी है।

4. उपरोक्त क्लेम स्टेटम का जवाब प्रस्तुत करते हुए अप्रार्थी की ओर से व्यक्त किया गया है कि प्रार्थी और अप्रार्थी के बीच सम्बन्ध, व्यक्तिगत अनुबन्ध पर आधारित है और प्रार्थी अधिनियमान्तर्गत कर्मकार की परिभाषा में नहीं आता है इसलिए व्यक्तिगत अनुबन्ध की समाप्ति, अधिनियम की धारा 2(क) की परिभाषान्तर्गत औद्योगिक विवाद के अन्तर्गत नहीं आती। प्रार्थी 10/5/07 को अप्रार्थी कंपनी में सेल्स मैनेजर के रूप में नियुक्त होकर कोटा में कार्यरत था। अप्रार्थी ने 3/12/07 से 7/12/07 तक प्रार्थी की प्रार्थना को इस आधार पर स्वीकृत कर लिया कि उसके परिवार का सदस्य स्वस्थ नहीं था। दि. 7/12/07 के उपरान्त उसे ड्यूटी पर वापस आना आवश्यक था, किन्तु उसने टेलीफोन से सूचित किया कि 29/12/07 तक अवकाश बढ़ाया जावे जिसे अप्रार्थी द्वारा अस्वीकार कर दिया गया। कंपनी ने अगले 10 दिन तक प्रार्थी का ड्यूटी पर वापस आने का इन्तजार करने के उपरान्त पत्र दि. 10/1/08 से प्रार्थी को सूचित किया कि 17/1/08 तक ड्यूटी पर उपस्थित हो जावे, अन्यथा उसे सेवा से बर्खास्त करने के अलावा कोई विकल्प नहीं बचेगा और इसी के साथ एक बर्खास्तगी पत्र दि. 17/1/08 उसके द्वारा बिना किसी कारण के कार्य से अनुपस्थिति के कारण भेजा गया व साथ में एक डिमाण्ड ड्राफ्ट 30,928/-रु. का भी प्रार्थी के नाम से भेजा जिसे प्रार्थी द्वारा प्राप्त कर लिया गया। प्रार्थी अधिनियमान्तर्गत कर्मकार की श्रेणी में नहीं आता, अतः हटाने से पूर्व अधिनियम के अज्ञापक प्रावधानों की परिपालना किया जाना आवश्यक नहीं था। अन्त में क्लेम स्टेटमेन्ट प्रार्थी निराधार होने से सव्यय निरस्त किये जाने की प्रार्थना की गयी।

5. साक्ष्य में प्रार्थी श्रमिक विजय गौतम ने स्वयं का शपथ-पत्र व प्रलेखीय साक्ष्य में प्रदर्श डबल्यू.1 लगायत डबल्यू.6 प्रलेख प्रस्तुत किये।

6. प्रकरण आज दि.14/12/2016 वास्ते जिरह प्रार्थी नियत थी। इसी प्रक्रम पर न्यायाधिकरण द्वारा जब पत्रावली का अवलोकन किया गया तो यह पाया गया कि सम्प्रेषित निर्देश/रेफ्रेन्स में अप्रार्थी नियोजक द्वारा प्रार्थी को निश्चित रूप से कब सेवा से मुक्त/पृथक किया गया, इस तिथि का कोई उल्लेख नहीं है। इस बाबत उभयपक्ष को भी सुना गया, किन्तु वे इस सम्बन्ध में कुछ भी स्पष्ट करने में असमर्थ रहे। अतः यह स्थिति स्पष्ट नहीं है कि यह न्यायाधिकरण अप्रार्थी द्वारा प्रार्थी की कौनसी तिथि, सेवा पृथक तिथि मानकर अप्रार्थी के कृत्य की उचितता एवं वैधता का विनिश्चय करेगा? इस सम्बन्ध में माननीय राज. उच्च न्यायालय द्वारा पारित न्यायदृष्टांत "2003 डबल्यू. एल.सी.(राज.) यू.सी. पृष्ठ 424—महावीर कण्डक्टर बनाम नन्दकिशोर" में यह प्रतिपादित किया गया है कि सेवाओं के पर्यवसान की तिथि का रेफ्रेन्स में उल्लेख नहीं होने से श्रम न्यायालय किसी कर्मकार के कथनानुसार पर्यवसान की तिथि को स्वीकार कर निर्देश/रेफ्रेन्स की शर्तों में सुधार, संशोधन या उपान्तरण करने में सक्षम नहीं है एवं ना ही न्यायालय को पक्षकारों की सहमति से ऐसी अधिकारिता प्राप्त होती है। अतः माननीय उच्च न्यायालय द्वारा निर्देश/रेफ्रेन्स में कर्मकार की सेवा पर्यवसान की तिथि वर्णित नहीं होने से अधिनिर्णय को अपास्त कर दिया गया। इस उक्त न्यायनिर्णय में प्रतिपादित सिद्धांत के अनुसार जहाँ निर्देश/रेफ्रेन्स में सेवा से हटाने, मुक्त करने या पृथक करने की तिथि का अंकन नहीं है तो श्रम न्यायालय को उस तिथि को सही करने या संशोधन करने की अधिकारिता पक्षकारों द्वारा ऐसी तिथि सुझावित किये जाने पर भी प्राप्त नहीं हो जाती है। अर्थात् यदि निर्देश में सेवा से मुक्ति, पृथक या हटाने की तिथि का कोई अंकन नहीं है व दोनों ही पक्षकार ऐसी तिथि यदि बता भी देते हों तो भी श्रम न्यायालय को उस बतायी गयी तिथि को मानकर उसके आधार पर निर्देश/रेफ्रेन्स उत्तरित करने का अधिकार प्राप्त नहीं हो जाता है। इस न्यायनिर्णय के पेर सं.11 में माननीय उच्चतम न्यायालय द्वारा "मदनपालसिंह बनाम उत्तरप्रदेश राज्य व अन्य—एआईआर 2000 एस.सी. 537" के निर्णय को विवेचित किया गया है तथा अन्त में यह निष्कर्ष निकाला गया कि श्रम न्यायालय निर्देश में वर्णित बिन्दुओं तक ही सीमित क्षेत्राधिकार रखता है एवं उसको पक्षकारों के नामों में निर्देश से परे जाकर संशोधन आदि का अधिकार प्राप्त नहीं होता। यदि नामों या तिथि आदि में कोई परिवर्तन या अंकन कराना है तो पक्षकारों को समुचित सरकार के समक्ष इस बाबत पक्ष रखकर उसमें संशोधन कराना होगा, परन्तु श्रम न्यायालय को ऐसा संशोधन करने की अधिकारिता नहीं है। अतः इसी निर्णय को आधार मानते हुए माननीय उच्च न्यायालय द्वारा उक्त मामले में श्रम न्यायालय द्वारा पारित अधिनिर्णय को क्षेत्राधिकार के अभाव का मानते हुए अपास्त कर दिया गया।

7. अब यह न्यायाधिकरण हस्तगत निर्देश/रेफ्रेन्स में प्रार्थी को अप्रार्थी नियोजक द्वारा कौनसी तिथि, सेवा से पृथक किये जाने की तिथि मानकर अप्रार्थी के उक्त कृत्य की उचितता एवं वैधता का विनिश्चय करेगा तथा क्या यह न्यायाधिकरण पक्षकारों द्वारा सुझायी गयी तिथि मानकर प्रकरण का गुणावगुण पर विनिश्चय कर सकता है अथवा निर्देश/रेफ्रेन्स में संशोधन करने की अधिकारिता रखता है? इस सम्बन्ध में माननीय राजस्थान उच्च न्यायालय द्वारा पारित उक्त न्यायदृष्टांत "2003 डबल्यू.एल.सी.(राज.) यू.सी. पृष्ठ 424—महावीर कण्डक्टर बनाम नन्दकिशोर" के पेर संख्या 12 का उल्लेख किया जाना न्यायसंगत है जिसमें माननीय उच्च न्यायालय द्वारा रेफ्रेन्स के निबन्धन या सेवा समाप्ति तिथि में संशोधन आदि बाबत निम्न स्थिति प्रकट की गयी है:-

"Thus, in view of the above, I reach the inescapable conclusion that the Labour Court has no competence to correct/modify/amend /alter the terms of the reference or mention the date of termination etc., or proceed with the reference and accepting the date of termination as suggested by the workman and in case it does so, the award becomes nullity, being without jurisdiction, based on the bad reference."

8. अतः माननीय राज. उच्च न्यायालय द्वारा पारित उपरोक्त न्यायदृष्टांत के प्रकाश में हस्तगत मामले में यह न्यायाधिकरण पक्षकारों द्वारा सुझायी गयी तिथि/नाम आदि को संशोधित तिथि/नाम मानकर प्रकरण को गुणावगुण पर निस्तारित किये जाने की अधिकारिता नहीं रखता है। इस प्रकार माननीय उच्चतम एवं माननीय उच्च न्यायालय द्वारा ऊपर विवेचित किये गये न्यायनिर्णयों में प्रतिपादित सिद्धांतों के अनुसार हस्तगत प्रकरण में इस न्यायाधिकरण को ऐसे पक्षकारों का संशोधन प्रस्ताव स्वीकार किये जाने की अधिकारिता नहीं होने से इस न्यायाधिकरण की राय में यह न्यायाधिकरण यदि कोई अधिनिर्णय पारित भी करता है तो वह क्षेत्राधिकार के अभाव का होकर शून्य होगा। इन न्यायनिर्णयों के खण्डन में या अन्य कोई न्यायनिर्णय ऐसा पेश भी नहीं किया गया जिसमें कि ऊपर वर्णित स्थिति होने के बावजूद भी

न्यायाधिकरण को निर्देश अधिनिर्णित करने का अधिकार प्राप्त हो। अतः कुल मिलाकर स्थिति उक्त न्यायनिर्णयों के ही अभी तक प्रभावशील होने की पायी जाती है। माननीय उच्च न्यायालय एवं माननीय उच्चतम न्यायालय द्वारा पारित उक्त न्यायनिर्णयों में प्रतिपादित सिद्धांतों से यह न्यायाधिकरण आबद्ध है। अतः ऐसी परिस्थिति में सम्पूर्ण विवेचन के उपरान्त इस न्यायाधिकरण की राय में इतना ही कहना पर्याप्त है कि हस्तगत निर्देश/रेफ्रेन्स में प्रार्थी को अप्रार्थी नियोजक द्वारा कौनसी तिथि से सेवा पृथक किया गया है, ऐसी तिथि का कोई अंकन नहीं होने से यह न्यायाधिकरण ऐसे निर्देश में कोई संशोधन कर अधिनिर्णय पारित करने की अधिकारिता नहीं रखता है एवं यदि पक्षकार सक्षम सरकार से इस बाबत निर्देश/रेफ्रेन्स में संशोधन कराकर न्यायाधिकरण में पेश करते हैं तो न्यायाधिकरण ऐसा संशोधन प्राप्त होने पर प्रकरण में विधि अनुसार कार्यवाही कर सकेगा, परन्तु इस प्रक्रम पर फिलहाल यह मामला इस न्यायाधिकरण के क्षेत्राधिकार के अभाव का पाया जाता है।

परिणामस्वरूप भारत सरकार, श्रम मंत्रालय, नई दिल्ली द्वारा प्रासांगिक आदेश दिनांक 24/6/2011 के जरिये सम्प्रेषित निर्देश/रेफ्रेन्स विवाद को इसी अनुरूप उत्तरित किया जाता है कि माननीय राजस्थान उच्च न्यायालय द्वारा पारित उक्त न्यायदृष्टांत "2003 डबल्यू.एल.सी.(राज.) यू.सी. पृष्ठ 424—महावीर कण्डक्टर बनाम नन्दकिशोर" में प्रतिपादित सिद्धांत के अनुसरण में हस्तगत निर्देश/रेफ्रेन्स में वर्णित प्रार्थी विजय गौतम को अप्रार्थी नियोजक द्वारा कौनसी तिथि को सेवा से पृथक किया गया है, ऐसी तिथि का कोई अंकन नहीं होने से व इस न्यायाधिकरण को पक्षकारों द्वारा सुझायी गयी तिथि को स्वीकार किये जाने की अधिकारिता नहीं होने से हस्तगत निर्देश/रेफ्रेन्स में अधिनिर्णय पारित किया जाना शून्य एवं क्षेत्राधिकार के अभाव का होगा। पक्षकार यदि सक्षम सरकार से उक्त तिथि बाबत निर्देश/रेफ्रेन्स में संशोधन/अंकन कराकर न्यायालय के समक्ष पेश करेंगे तो न्यायालय गुणावगुण के आधार पर विधि अनुसार आगे प्रकरण के निस्तारण की कार्यवाही कर सकेगा।

जगमोहन शर्मा, न्यायाधीश

नई दिल्ली, 30 मई, 2017

का.आ. 1370.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स एसोसिएटेड स्टोन इण्डस्ट्रीज (कोटा) लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोटा (राजस्थान) के पंचाट (संदर्भ संख्या 36/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.05.2017 को प्राप्त हुआ था।

[सं. एल-29012/15/2002-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 30th May, 2017

S.O. 1370.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 36/2002) of the Central Government Industrial Tribunal/Labour Court, Kota (Rajasthan) now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Associated Stone Industries (Kota) Ltd. and their workman, which was received by the Central Government on 23.05.2017.

[No. L-29012/15/2002-IR (M)]

RAJESH KUMAR, Under Secy.

अनुबंध

न्यायाधीश, औद्योगिक न्यायाधिकरण (केन्द्रीय) कोटा, (राज.)

पीठासीन अधिकारी— श्री केशव कौशिक, आर.एच.जे.एस.

निर्देश प्रकरण क्रमांक : औ.न्या. (केन्द्रीय)—36/2002

दिनांक स्थापित : 25/9/2002

प्रसंग : भारत सरकार, श्रम मंत्रालय, नई दिल्ली के आदेश क्रं. एल-29012/15/2002-आईआर (एम) दि. 05/09/2002

निर्देश/विवाद अन्तर्गत धारा 10(1)(घ) एवं उपधारा 2(क) औद्योगिक विवाद अधिनियम, 1947

मध्य :

रमेशचन्द्र पुत्र दुर्गसिंह द्वारा जनरल सेक्रेट्री,
पत्थर खान कामगार यूनियन, बंगाली कोलोनी,
छावनी, कोटा

—प्रार्थी श्रमिक

एवं

प्रबन्धक मै. एसोसियेटेड स्टोन इण्डस्ट्रीज (कोटा) लि.
रामगंजमण्डी जिला कोटा(राजस्थान)

—अप्रार्थी नियोजक

उपस्थित :

प्रार्थी श्रमिक की ओर से प्रतिनिधि : श्री पुरुषोत्तम दाधीच

अप्रार्थी नियोजक की ओर से प्रतिनिधि : श्री वी.के. जैन

अधिनिर्णय दिनांक : 24/4/2017

अधिनिर्णय

भारत सरकार, श्रम मंत्रालय, नई दिल्ली के प्रासांगिक आदेश दिनांक 5/9/2002 के जरिये निम्न निर्देश विवाद, औद्योगिक विवाद अधिनियम, 1947 (जिसे तदुपरान्त "अधिनियम" से सम्बोधित किया जावेगा) की धारा 10(1)घ) एवं उपधारा 2(क) के अन्तर्गत इस न्यायाधिकरण को अधिनिर्णयार्थ सम्प्रेषित किया गया है:—

"क्या प्रबन्धन मैसर्स एसोसियेटेड स्टोन इण्डस्ट्रीज(कोटा) लि. रामगंजमण्डी जिला कोटा(राज.) द्वारा उनके कर्मकार श्री रमेशचन्द्र पुत्र श्री दुर्गसिंह की सेवाएं दण्ड स्वरूप समाप्त करने की कार्यवाही उचित एवं न्यायसंगत है? यदि नहीं तो संबंधित कर्मकार किस अनुतोष का हकदार है?"

2— निर्देश/विवाद, न्यायाधिकरण में प्राप्त होने पर पंजीबद्ध उपरान्त पक्षकारों को सूचना/नोटिस जारी कर विधिवत अवगत करवाया गया।

3— प्रार्थी श्रमिक की ओर से प्रार्थी यूनियन के महामंत्री द्वारा क्लेम स्टेटमेंट न्यायाधिकरण के समक्ष प्रस्तुत कर संक्षिप्त: व्यक्त किया गया है कि उसे अप्रार्थी नियोजक द्वारा दि. 21/8/95 से सिक्यूरिटी गार्ड के पद पर सेवा में नियोजित किया गया था। अप्रार्थी नियोजक द्वारा प्रार्थी को दि. 19/5/2000 के पत्र द्वारा दुराचरण सम्बन्धी एक आरोप—पत्र ड्यूटी के दौरान सोते हुए पाये जाने बाबत दिया गया जिसका स्पष्टीकरण प्रार्थी द्वारा प्रस्तुत कर दिया गया। आयोजित विभागीय जाँच मनमाने तरीके से प्रार्थी को बचाव का अवसर नहीं देते हुए सम्पन्न कर आरोप प्रमाणित नहीं होने पर भी उसे दुर्भावनावाश दण्ड स्वरूप दि. 1/7/2000 से सेवा से पृथक कर दिया गया जो उचित नहीं है। अन्त में प्रार्थी श्रमिक को पिछले सम्पूर्ण वेतन, लाभों सहित सेवा में बहाल किये जाने की प्रार्थना की गयी।

4— अप्रार्थी नियोजक पक्ष की ओर से प्रतिवाद स्वरूप उक्त क्लेम का जवाब प्रस्तुत करते हुए क्लेम प्रार्थी मिथ्या व निराधार बतलाते हुए स्वयं निरस्त किये जाने की प्रार्थना की गयी।

5— न्यायाधिकरण में आज स्वयं प्रार्थी श्रमिक रमेशचन्द्र मय अधिकृत प्रतिनिधि श्री पुरुषोत्तम दाधीच ने उपस्थित होकर एक आवेदन—पत्र प्रस्तुत कर यह अंकित किया कि प्रार्थी श्रमिक, अप्रार्थी के यहाँ पुनः सेवा में नियोजन के अधिकार का परित्याग कर रहा है और अप्रार्थी नियोजक से 40,000/—रु. जरिये चैक क्र.013632 दि.14/4/2017 एचडीएफसी बैंक बतौर फुल एण्ड फाइनल हिसाब कर प्राप्त कर रहा है और अब प्रार्थी श्रमिक का अप्रार्थी की ओर कोई बकाया नहीं रहा है, अतः इसी आधार पर प्रकरण में अधिनिर्णय पारित कर दिया जावे। अप्रार्थी की ओर से उपस्थित प्रतिनिधि श्री वी.के.जैन ने भी प्रार्थी श्रमिक के उक्त कथन पर अनापत्ति प्रकट की है।

6— सुना गया। प्रार्थी श्रमिक की ओर से प्रस्तुत आवेदन—पत्र व पत्रावली का अवलोकन किया गया। चूँकि हस्तगत निर्देश/रेफ्रेन्स में स्वयं प्रार्थी श्रमिक की ओर से प्रस्तुत आवेदनानुसार उसके द्वारा अप्रार्थी के यहाँ अपने सेवा में पुनः नियोजन के अधिकार का परित्याग कर अप्रार्थी नियोजक से 40,000/—रु. का चैक बतौर फुल एण्ड फाइनल हिसाब के प्राप्त कर लिया गया है और इसी आधार पर अधिनिर्णय पारित किये जाने की प्रार्थना की गयी है जिसमें अप्रार्थी प्रतिनिधि द्वारा भी अनापत्ति प्रकट की गयी है, अतः उभयपक्ष के मध्य हस्तगत मामले में अब कोई विवाद शेष नहीं रहने से मामला विवाद रहित हो जाता है तथा सम्प्रेषित निर्देश/रेफ्रेन्स भी उपरोक्तानुसार ही उत्तरित होने योग्य है।

परिणामस्वरूप भारत सरकार, श्रम मंत्रालय, नई दिल्ली द्वारा प्रासांगिक आदेश दिनांक 5/9/2002 के जरिये सम्प्रेषित निर्देश/रेफ्रेन्स विवाद को इसी अनुरूप उत्तरित किया जाता है कि स्वयं प्रार्थी श्रमिक रमेशचन्द्र द्वारा अपने मामले में अप्रार्थी के यहाँ पुनः सेवामें नियोजन के अधिकार का परित्याग कर रु.40,000/— बतौर फुल एण्ड फाइनल हिसाब के जरिये चैक प्राप्त कर लिये जाने से तथा उभयपक्ष के मध्य अब कोई विवाद शेष नहीं रहने से यह मामला 'विवाद रहित' हो जाता है।

केशव कौशिक, न्यायाधीश

नई दिल्ली, 30 मई, 2017

का.आ. 1371.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स मसूद अहमद पुत्र हाजी सुल्तान अखतर भाई, लाईम स्टोन माईन ऑनर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में

निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोटा (राजस्थान) के पंचाट (संदर्भ संख्या 37/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.05.2017 को प्राप्त हुआ था।

[सं. एल-29012/56/2001-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 30th May, 2017

S.O. 1371.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 37/2002) of the Central Government Industrial Tribunal/Labour Court, Kota (Rajasthan) now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Masood Ahmed S/o Hazi Sultan Akhtar Bhai, Lime Stone Mine Owner and their workman, which was received by the Central Government on 23.05.2017.

[No. L-29012/56/2001-IR (M)]

RAJESH KUMAR, Under Secy.

अनुबंध

न्यायाधीश, औद्योगिक न्यायाधिकरण (केन्द्रीय) कोटा, (राज.)

पीठासीन अधिकारी— श्री जगमोहन शर्मा, आर.एच.जे.एस.

निर्देश प्रकरण क्रमांक : औ.न्या. (केन्द्रीय)—37 / 2002

दिनांक स्थापित: 15 / 11 / 2002

प्रसंग : भारत सरकार, श्रम मंत्रालय, नई दिल्ली के आदेश क्रं. एल-29012/56/2001-आईआर (एम) दि. 28 / 11 / 2001 एवं अग्रेषण पत्र दि. 7 / 10 / 2002

निर्देश/विवाद अन्तर्गत धारा 10(1)(घ) एवं उपधारा 2(क) औद्योगिक विवाद अधिनियम, 1947

मध्य :

अब्दुल सलीम पुत्र अब्दुल हजीज, एच.पी.ओ. बाजार नं. 1,
रामगंजमण्डी जिला, कोटा

—प्रार्थी श्रमिक

एवं

मसूद अहमद पुत्र हाजी सुल्तान अखतर भाई, लाईम स्टोन
माईन ऑनर, बाजार नं.4, पी.ओ. रामगंजमण्डी जिला कोटा (राज.)

—अप्रार्थी नियोजक

उपस्थित :

प्रार्थी श्रमिक की ओर से प्रतिनिधि : श्री पुरुषोत्तम दाधीच

अप्रार्थी नियोजक की ओर से प्रतिनिधि : कोई उपस्थित नहीं

अधिनिर्णय दिनांक : 30 / 3 / 2017

अधिनिर्णय

भारत सरकार, श्रम मंत्रालय, नई दिल्ली के प्रासांगिक आदेश दिनांक 28 / 11 / 2001 एवं अग्रेषण पत्र दि. 7 / 10 / 2002 के जरिये निम्न निर्देश विवाद, औद्योगिक विवाद अधिनियम, 1947 (जिसे तदुपरान्त "अधिनियम" से सम्बोधित किया जावेगा) की धारा 10(1)(घ) एवं उपधारा 2(क)के अन्तर्गत इस न्यायाधिकरण को अधिनिर्णयार्थ सम्प्रेषित किया गया है:-

“क्या प्रबन्धन श्री मसूद अहमद पुत्र सुल्तान अखतर, लाईम स्टोन खदान मालिक, बाजार नं.4 रामगंजमण्डी, जिला कोटा (राज.) द्वारा उनके कर्मकार श्री अब्दुल सलीम पुत्र अब्दुल हजीज, मुंशी, बाजार नं.1 रामगंजमण्डी की सेवाएं माह जनवरी, 2001 से समाप्त करने की कार्यवाही उचित एवं न्यायसंगत है? यदि नहीं तो सम्बन्धित कर्मकार किस अनुतोष का हकदार है?”

2. निर्देश/विवाद, न्यायाधिकरण में प्राप्त होने पर पंजीबद्ध उपरान्त पक्षकारों को सूचना/नोटिस जारी कर विधिवत अवगत करवाया गया।

3. प्रार्थी श्रमिक की ओर से क्लेम स्टेटमेन्ट न्यायाधिकरण के समक्ष प्रस्तुत कर संक्षिप्त: व्यक्त किया गया है कि प्रार्थी श्रमिक को अप्रार्थी प्रबन्धक, मसूद पुत्र सुल्तान अखतर, लाईम स्टोन खदान मालिक, बाजार नं.4 रामगंजमण्डी, जिला कोटा द्वारा दि. 1/6/87 से

मुंशी के पद पर कार्य हेतु सेवा में नियोजित किया गया था, किन्तु उसके द्वारा उपाजित अवकाश व एलटीसी आदि की राशि की मांग किये जाने से उसे 8/5/98 को नौकरी से हटा दिया गया था। तदुपरान्त श्रम विभाग में दि. 24/8/98 को सम्पन्न हुए समझौते के तहत उसे पुनः ड्यूटी पर ले लिया गया तथा उक्त सुविधाएं प्रदान किये जाने की मांग करने पर पुनः दि. 1/1/2001 से हटा दिया गया। इस प्रकार प्रार्थी द्वारा 1/6/87 से 31/12/2000 तक निरन्तर अप्रार्थी के यहाँ कार्य किया गया है, किन्तु बिना अधिनियम के आज्ञापक प्रावधानों की पालना किये सेवा से हटाया जाना अवैध छंटनी की परिभाषा में आता है। अन्त में पिछले सम्पूर्ण वेतन, लाभों सहित सेवामें बहाल किये जाने का अनुतोष प्रदान किये जाने की प्रार्थना की गयी है।

4. उपरोक्त क्लेम स्टेटमेन्ट का जवाब प्रस्तुत कर अप्रार्थी की ओर से समझौते के अनुरूप सभी सुविधाएं प्रदान किया जाना व सेवा से नहीं हटाया जाना व्यक्त किया गया है, बल्कि कथन किया है कि प्रार्थी स्वयं ही स्वेच्छा से सेवा से त्यागपत्र देकर गया है। उसके द्वारा कभी भी निरन्तर सेवा नहीं की गयी तथा स्वयं द्वारा 1/1/01 को अपना समस्त हिसाब प्राप्त कर त्याग-पत्र देकर अपनी सेवायें समाप्त की गयी हैं। अन्त में अधिनियमान्तर्गत किसी अनुतोष का अधिकारी नहीं होना व्यक्त करते हुए क्लेम प्रार्थी निरस्त किये जाने की प्रार्थना की गयी है।

5. साक्ष्य में स्वयं प्रार्थी श्रमिक अब्दुल सलीम व अप्रार्थी पक्ष की ओर से मसूद अहमद के शपथ-पत्र प्रस्तुत किये गये, जिनसे दोनों पक्षों के प्रतिनिधिगण द्वारा एक-दूसरे पक्ष के शपथ-पत्रों पर जिरह की गयी। उभयपक्ष की ओर से प्रलेखीय साक्ष्य भी प्रस्तुत की गयी है।

6. प्रकरण में तारीख पेशी दि. 16/2/15 से लेकर आज दिन तक लगभग दो वर्ष से भी अधिक की अवधि तक अप्रार्थी पक्ष की ओर से कोई भी उपस्थित नहीं हो रहा है, जबकि पत्रावली बहस अन्तिम के प्रक्रम पर नियत है। ऐसी परिस्थिति में अब न्यायाधिकरण के समक्ष प्रार्थी पक्ष की बहस सुनने के अतिरिक्त अन्य कोई विकल्प शेष नहीं रहा है। अतः विद्वान प्रतिनिधि प्रार्थी की बहस अन्तिम सुनी गयी व पत्रावली का अवलोकन किया गया। दौरान बहस न्यायाधिकरण के समक्ष यह तथ्य जानकारी में आया है कि सम्प्रेषित निर्देश/रेफ्रेन्स में अप्रार्थी नियोजक द्वारा प्रार्थी श्रमिक को निश्चित रूप से कब सेवा से समाप्त/पृथक किया गया, इस तिथि का कोई उल्लेख नहीं है। अतः यह स्थिति स्पष्ट नहीं है कि यह न्यायाधिकरण अप्रार्थी द्वारा प्रार्थी श्रमिक की वर्ष 2001 के माह जनवरी की कौन सी तिथि, सेवा पृथक तिथि मानकर अप्रार्थी के कृत्य की उचितता एवं वैधता का विनिश्चय करेगा? इस सम्बन्ध में माननीय राज. उच्च न्यायालय द्वारा पारित न्यायदृष्टांत "2003 डबल्यू.एल.सी.(राज.) यू.सी. पृष्ठ 424—महावीर कण्डक्टर बनाम नन्दकिशोर" में यह प्रतिपादित किया गया है कि सेवाओं के पर्यवसान की तिथि का रेफ्रेन्स में उल्लेख नहीं होने से श्रम न्यायालय किसी कर्मकार के कथनानुसार पर्यवसान की तिथि को स्वीकार कर निर्देश/रेफ्रेन्स की शर्तों में सुधार, संशोधन या उपांतरण करने में सक्षम नहीं है एवं ना ही न्यायालय को पक्षकारों की सहमति से ऐसी अधिकारिता प्राप्त होती है। अतः माननीय उच्च न्यायालय द्वारा निर्देश/रेफ्रेन्स में कर्मकार की सेवा पर्यवसान की तिथि वर्णित नहीं होने से अधिनिर्णय को अपास्त कर दिया गया। इस उक्त न्यायनिर्णय में प्रतिपादित सिद्धांत के अनुसार जहाँ निर्देश/रेफ्रेन्स में सेवा से हटाने, मुक्त करने या पृथक करने की तिथि का अंकन नहीं है तो श्रम न्यायालय को उस तिथि को सही करने या संशोधन करने की अधिकारिता पक्षकारों द्वारा ऐसी तिथि सुझावित किये जाने पर भी प्राप्त नहीं हो जाती है। अर्थात् यदि निर्देश में सेवा से मुक्ति, पृथक या हटाने की तिथि का कोई अंकन नहीं है व दोनों ही पक्षकार ऐसी तिथि यदि बता भी देते हों तो भी श्रम न्यायालय को उस बतायी गयी तिथि को मानकर उसके आधार पर निर्देश/रेफ्रेन्स उत्तरित करने का अधिकार प्राप्त नहीं हो जाता है। इस न्यायनिर्णय के पेरा सं.11 में माननीय उच्चतम न्यायालय द्वारा "मदनपालसिंह बनाम उत्तर प्रदेश राज्य व अन्य—एआईआर 2000 एस.सी. 537" के निर्णय को विवेचित किया गया है तथा अन्त में यह निष्कर्ष निकाला गया कि श्रम न्यायालय निर्देश में वर्णित बिन्दुओं तक ही सीमित क्षेत्राधिकार रखता है एवं उसको पक्षकारों के नामों में निर्देश से परे जाकर संशोधन आदि का अधिकार प्राप्त नहीं होता। यदि नामों या तिथि आदि में कोई परिवर्तन या अंकन कराना है तो पक्षकारों को समुचित सरकार के समक्ष इस बाबत पक्ष रखकर उसमें संशोधन कराना होगा, परन्तु श्रम न्यायालय को ऐसा संशोधन करने की अधिकारिता नहीं है। अतः इसी निर्णय को आधार मानते हुए माननीय उच्च न्यायालय द्वारा उक्त मामले में श्रम न्यायालय द्वारा पारित अधिनिर्णय को क्षेत्राधिकार के अभाव का मानते हुए अपास्त कर दिया गया।

7. अब यह न्यायाधिकरण हस्तगत निर्देश/रेफ्रेन्स में प्रार्थी श्रमिक को अप्रार्थी नियोजक द्वारा वर्ष 2001 के माह जनवरी की कौन सी तिथि, सेवा से पृथक किये जाने की तिथि मानकर अप्रार्थी के उक्त कृत्य की उचितता एवं वैधता का विनिश्चय करेगा तथा क्या यह न्यायाधिकरण पक्षकारों द्वारा सुझायी गयी तिथि मानकर प्रकरण का गुणावगुण पर विनिश्चय कर सकता है अथवा निर्देश/रेफ्रेन्स में संशोधन करने की अधिकारिता रखता है? इस सम्बन्ध में माननीय राजस्थान उच्च न्यायालय द्वारा पारित उक्त न्यायदृष्टांत "2003 डबल्यू.एल.सी.(राज.) यू.सी. पृष्ठ 424—महावीर कण्डक्टर बनाम नन्दकिशोर" के पेरा संख्या 12 का उल्लेख किया जाना न्यायसंगत है जिसमें माननीय उच्च न्यायालय द्वारा रेफ्रेन्स के निबन्धन या सेवा समाप्ति तिथि में संशोधन आदि बाबत निम्न स्थिति प्रकट की गयी है:—

"Thus, in view of the above, I reach the inescapable conclusion that the Labour Court has no competence to correct/modify/amend /alter the terms of the reference or mention the date of termination etc., or proceed with the reference and accepting the date of termination as suggested by the workman and in case it does so, the award becomes nullity, being without jurisdiction, based on the bad reference."

8. अतः माननीय राज. उच्च न्यायालय द्वारा पारित उपरोक्त न्यायदृष्टांत के प्रकाश में हस्तगत मामले में यह न्यायाधिकरण पक्षकारों द्वारा सुझायी गयी तिथि/नाम आदि को संशोधित तिथि/नाम मानकर प्रकरण को गुणावगुण पर निस्तारित किये जाने की अधिकारिता नहीं रखता है। इस प्रकार माननीय उच्चतम एवं माननीय उच्च न्यायालय द्वारा ऊपर विवेचित किये गये न्यायनिर्णयों में प्रतिपादित सिद्धांतों के अनुसार हस्तगत प्रकरण में इस न्यायाधिकरण को ऐसे पक्षकारों का संशोधन प्रस्ताव स्वीकार किये जाने की अधिकारिता नहीं होने से इस

न्यायाधिकरण की राय में यह न्यायाधिकरण यदि कोई अधिनिर्णय पारित भी करता है तो वह क्षेत्राधिकार के अभाव का होकर शून्य होगा। इन न्यायनिर्णयों के खण्डन में या अन्य कोई न्यायनिर्णय ऐसा पेश भी नहीं किया गया जिसमें कि ऊपर वर्णित स्थिति होने के बावजूद भी न्यायाधिकरण को निर्देश अधिनिर्णित करने का अधिकार प्राप्त हो। अतः कुल मिलाकर स्थिति उक्त न्यायनिर्णयों के ही अभी तक प्रभावशील होने की पायी जाती है। माननीय उच्च न्यायालय एवं माननीय उच्चतम न्यायालय द्वारा पारित उक्त न्यायनिर्णयों में प्रतिपादित सिद्धांतों से यह न्यायाधिकरण आबद्ध है। अतः ऐसी परिस्थिति में सम्पूर्ण विवेचन के उपरान्त इस न्यायाधिकरण की राय में इतना ही कहना पर्याप्त है कि हस्तगत निर्देश/रेफ्रेन्स में प्रार्थी श्रमिक को अप्रार्थी नियोजक द्वारा वर्ष 2001 के माह जनवरी की कौनसी तिथि को सेवा पृथक किया गया है, ऐसी तिथि का कोई अंकन नहीं होने से यह न्यायाधिकरण ऐसे निर्देश में कोई संशोधन कर अधिनिर्णय पारित करने की अधिकारिता नहीं रखता है एवं यदि पक्षकार सक्षम सरकार से इस बाबत निर्देश/रेफ्रेन्स में संशोधन कराकर न्यायाधिकरण में पेश करते हैं तो न्यायाधिकरण ऐसा संशोधन प्राप्त होने पर प्रकरण में विधि अनुसार कार्यवाही कर सकेगा, परन्तु इस प्रक्रम पर फिलहाल यह मामला इस न्यायाधिकरण के क्षेत्राधिकार के अभाव का पाया जाता है।

परिणामस्वरूप भारत सरकार, श्रम मंत्रालय, नई दिल्ली द्वारा प्रासांगिक आदेश दिनांक 28/11/2001 एवं अग्रेषण पत्र दिनांक 7/10/2002 के जरिये सम्प्रेषित निर्देश/रेफ्रेन्स विवाद को इसी अनुरूप उत्तरित किया जाता है कि माननीय राजस्थान उच्च न्यायालय द्वारा पारित उक्त न्यायदृष्टांत "2003 डब्ल्यू.एल.सी.(राज.) यू.सी. पृष्ठ 424—महावीर कण्डक्टर बनाम नन्दकिशोर" में प्रतिपादित सिद्धांत के अनुसरण में हस्तगत निर्देश/रेफ्रेन्स में वर्णित प्रार्थी श्रमिक अब्दुल सलीम को अप्रार्थी नियोजक द्वारा वर्ष 2001 के माह जनवरी की कौनसी तिथि को सेवा से पृथक किया गया है, ऐसी तिथि का कोई अंकन नहीं होने से व इस न्यायाधिकरण को पक्षकारों द्वारा सुझायी गयी तिथि को स्वीकार किये जाने की अधिकारिता नहीं होने से हस्तगत निर्देश/रेफ्रेन्स में अधिनिर्णय पारित किया जाना शून्य एवं क्षेत्राधिकार के अभाव का होगा। पक्षकार यदि सक्षम सरकार से उक्त तिथि बाबत निर्देश/रेफ्रेन्स में संशोधन/अंकन कराकर न्यायाधिकरण के समक्ष पेश करेंगे तो न्यायाधिकरण गुणावगुण के आधार पर विधि अनुसार आगे प्रकरण के निस्तारण की कार्यवाही कर सकेगा।

जगमोहन शर्मा, न्यायाधीश

नई दिल्ली, 30 मई, 2017

का.आ. 1372.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स गंगा राम कालू राम, लाईम स्टोन माईन ऑनर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोटा (राजस्थान) के पंचाट (संदर्भ संख्या 1/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.05.2017 को प्राप्त हुआ था।

[सं. एल-29012/34/2002-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 30th May, 2017

S.O. 1372.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1/2003) of the Central Government Industrial Tribunal/Labour Court, Kota (Rajasthan) now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Ganga Ram Kalu Ram, Lime Stone Mine Owner and their workman, which was received by the Central Government on 23.05.2017.

[No. L-29012/34/2002-IR (M)]

RAJESH KUMAR, Under Secy.

अनुबंध

न्यायाधीश, औद्योगिक न्यायाधिकरण (केन्द्रीय) कोटा, (राज.)

पीठासीन अधिकारी— श्री जगमोहन शर्मा, आर.एच.जे.एस.

निर्देश प्रकरण क्रमांक : औ.न्या. (केन्द्रीय)—1/2003

दिनांक स्थापित : 1/1/2003

प्रसंग : भारत सरकार, श्रम मंत्रालय, नई दिल्ली के आदेश क्र. एल-29012/34/2002-आईआर (एम) दि. 13/11/2002

निर्देश/विवाद अन्तर्गत धारा 10(1)(घ) एवं उपधारा 2(क) औद्योगिक विवाद अधिनियम, 1947

मध्य :

महेश कुमार दुबे निवासी वेयरहाउस के पीछे,
सत्यदेवी मंदिर के सामने, रामगंजमण्डी

—प्रार्थी श्रमिक

एवं

मै.गंगाराम कालूराम, लाईम स्टोन माईन्स ऑनर, सातलखेड़ी,
तहसील रामगंजमण्डी, जिला कोटा

—अप्रार्थी नियोजक

उपस्थित :

प्रार्थी श्रमिक की ओर से प्रतिनिधि : श्री पुरुषोत्तम दाधीच

अप्रार्थी नियोजक की ओर से प्रतिनिधि : श्री धर्म चन्द जैन

अधिनिर्णय दिनांक : 10/3/2017

अधिनिर्णय

भारत सरकार, श्रम मंत्रालय, नई दिल्ली के प्रासांगिक आदेश दिनांक 13/11/2002 के जरिये निम्न निर्देश विवाद, औद्योगिक विवाद अधिनियम, 1947 (जिसे तदुपरान्त "अधिनियम" से सम्बोधित किया जावेगा) की धारा 10(1)घ) एवं उपधारा 2(क) के अन्तर्गत इस न्यायालय को अधिनिर्णयार्थ सम्प्रेषित किया गया है:—

"Whether the services of Sh. Mahesh Kumar Dubey were terminated by the management of M/s. Ganga Ram Kalu Ram, Satalkhedi, Kota? If yes, whether his termination was legal and justified? If not, to what relief he is entitled to and from which date?"

2— निर्देश/विवाद, न्यायालय में प्राप्त होने पर पंजीबद्ध उपरान्त पक्षकारों को सूचना/नोटिस जारी कर विधिवत अवगत करवाया गया।

3— प्रार्थी श्रमिक की ओर से क्लेम स्टेटमेन्ट न्यायालय के समक्ष प्रस्तुत कर संक्षिप्त: व्यक्त किया गया है कि उसे अप्रार्थी नियोजक द्वारा दि. 18/2/92 से खान पीपाखेड़ी में टाईम कीपर कम मुंशी के पद पर सेवामें नियोजित किया गया था, तब से उसके द्वारा 10/9/01 तक निरन्तर कार्य करते हुए 240 दिन से भी अधिक समय तक कार्य कर लिया गया था, किन्तु उसे दि. 11/9/01 से बिना किसी कारण व पूर्व सूचना व बिना अधिनियम के आज्ञापक प्रावधानों की पालना के सेवा से हटा दिया गया। अन्त में उसे पिछले सम्पूर्ण वेतन, लाभों सहित सेवामें बहाल किये जाने का अनुतोष प्रदान किये जाने की प्रार्थना की गयी है।

4— उपरोक्त क्लेम स्टेटमेन्ट का जवाब प्रस्तुत कर अप्रार्थी नियोजक की ओर से प्रार्थी द्वारा बतलायी गयी तिथि से नियुक्त नहीं कर दि. 1/6/83 से नियुक्त किया जाना व्यक्त किया गया है। चूँकि प्रार्थी श्रमिक स्वयं द्वारा अपना त्यागपत्र देकर सेवामें समाप्त की गयी हैं, अतः उसका मामला छंटनी का नहीं है। क्लेम प्रार्थी निराधार होने से सव्यय निरस्त किये जाने की प्रार्थना की गयी है।

5— साक्ष्य में स्वयं प्रार्थी महेश कुमार दुबे का शपथ-पत्र प्रस्तुत हुआ, जिरह अप्रार्थी पक्ष द्वारा की गयी। अप्रार्थी पक्ष की ओर से साक्षी पंकज कुमार का शपथ-पत्र प्रस्तुत हुआ।

6— प्रकरण आज दि. 10/3/2017 को वास्ते साक्ष्य/जिरह गवाह अप्रार्थी नियत था। इसी प्रक्रम पर न्यायालय द्वारा आज जब पत्रावली का अवलोकन किया गया तो यह पाया गया कि सम्प्रेषित निर्देश/रेफ्रेन्स में अप्रार्थी नियोजक द्वारा प्रार्थी श्रमिक को निश्चित रूप से कब सेवा से मुक्त/पृथक किया गया, इस तिथि का कोई उल्लेख नहीं है। अतः यह स्थिति स्पष्ट नहीं है कि यह न्यायालय अप्रार्थी द्वारा प्रार्थी श्रमिक की कौनसी तिथि, सेवा पृथक तिथि मानकर अप्रार्थी के कृत्य की उचितता एवं वैधता का विनिश्चय करेगा? इस सम्बन्ध में माननीय राज. उच्च न्यायालय द्वारा पारित न्यायदृष्टांत "2003 डबल्यू.एल.सी.(राज.) यू.सी. पृष्ठ 424— महावीर कण्डक्टर बनाम नन्दकिशोर" में यह प्रतिपादित किया गया है कि सेवाओं के पर्यवसान की तिथि का रेफ्रेन्स में उल्लेख नहीं होने से श्रम न्यायालय किसी कर्मकार के कथनानुसार पर्यवसान की तिथि को स्वीकार कर निर्देश/रेफ्रेन्स की शर्तों में सुधार, संशोधन या उपान्तरण करने में सक्षम नहीं है एवं ना ही न्यायालय को पक्षकारों की सहमति से ऐसी अधिकारिता प्राप्त होती है। अतः माननीय उच्च न्यायालय द्वारा निर्देश/रेफ्रेन्स में कर्मकार की सेवा पर्यवसान की तिथि वर्णित नहीं होने से अधिनिर्णय को अपास्त कर दिया गया। इस उक्त न्यायनिर्णय में प्रतिपादित सिद्धांत के अनुसार जहाँ निर्देश/रेफ्रेन्स में सेवा से हटाने, मुक्त करने या पृथक करने की तिथि का अंकन नहीं है तो श्रम न्यायालय को उस तिथि को सही करने या संशोधन करने की अधिकारिता पक्षकारों द्वारा ऐसी तिथि सुझावित किये जाने पर भी प्राप्त नहीं हो जाती है। अर्थात् यदि निर्देश में सेवा से मुक्ति, पृथक या हटाने की तिथि का कोई अंकन नहीं है व दोनों ही पक्षकार ऐसी तिथि यदि बता भी देते हों तो भी श्रम न्यायालय को उस बतायी गयी तिथि को मानकर उसके आधार पर निर्देश/रेफ्रेन्स उत्तरित करने का अधिकार प्राप्त नहीं हो जाता है। इस न्यायनिर्णय के पेरा सं.11 में माननीय उच्चतम न्यायालय द्वारा "मदनपालसिंह बनाम उत्तर प्रदेश राज्य व अन्य—एआईआर 2000 एस.सी. 537" के निर्णय को विवेचित किया गया है तथा अन्त में यह निष्कर्ष निकाला गया कि श्रम न्यायालय निर्देश में वर्णित बिन्दुओं तक ही सीमित क्षेत्राधिकार रखता है एवं उसको पक्षकारों के नामों में निर्देश से परे जाकर संशोधन आदि का अधिकार प्राप्त नहीं होता। यदि नामों या तिथि आदि में कोई परिवर्तन या अंकन कराना है तो पक्षकारों को समुचित सरकार के समक्ष इस बाबत पक्ष रखकर उसमें संशोधन कराना होगा, परन्तु श्रम न्यायालय को ऐसा संशोधन करने की अधिकारिता नहीं है। अतः इसी निर्णय को आधार मानते हुए माननीय उच्च न्यायालय द्वारा उक्त मामले में श्रम न्यायालय द्वारा पारित अधिनिर्णय को क्षेत्राधिकार के अभाव का मानते हुए अपास्त कर दिया गया।

7— अब यह न्यायालय हस्तगत निर्देश/रेफ्रेन्स में प्रार्थी श्रमिक को अप्रार्थी नियोजक द्वारा कौनसी तिथि, सेवा से पृथक किये जाने की तिथि मानकर अप्रार्थी के उक्त कृत्य की उचितता एवं वैधता का विनिश्चय करेगा तथा क्या यह न्यायालय पक्षकारों द्वारा सुझायी गयी तिथि

मानकर प्रकरण का गुणावगुण पर विनिश्चय कर सकता है अथवा निर्देश/रेफ्रेन्स में संशोधन करने की अधिकारिता रखता है? इस सम्बन्ध में माननीय राजस्थान उच्च न्यायालय द्वारा पारित उक्त न्यायदृष्टांत "2003 डबल्यू.एल.सी.(राज.) यू.सी. पृष्ठ 424—महावीर कण्डक्टर बनाम नन्दकिशोर" के पेरा संख्या 12 का उल्लेख किया जाना न्यायसंगत है जिसमें माननीय उच्च न्यायालय द्वारा रेफ्रेन्स के निबन्धन या सेवा समाप्ति तिथि में संशोधन आदि बाबत निम्न स्थिति प्रकट की गयी है:-

"Thus, in view of the above, I reach the inescapable conclusion that the Labour Court has no competence to correct/modify/amend /alter the terms of the reference or mention the date of termination etc., or proceed with the reference and accepting the date of termination as suggested by the workman and in case it does so, the award becomes nullity, being without jurisdiction, based on the bad reference."

8— अतः माननीय राज. उच्च न्यायालय द्वारा पारित उपरोक्त न्यायदृष्टांत के प्रकाश में हस्तगत मामले में यह न्यायालय पक्षकारों द्वारा सुझायी गयी तिथि/नाम आदि को संशोधित तिथि/नाम मानकर प्रकरण को गुणावगुण पर निस्तारित किये जाने की अधिकारिता नहीं रखता है। इस प्रकार माननीय उच्चतम एवं माननीय उच्च न्यायालय द्वारा ऊपर विवेचित किये गये न्यायनिर्णयों में प्रतिपादित सिद्धांतों के अनुसार हस्तगत प्रकरण में इस न्यायालय को ऐसे पक्षकारों का संशोधन प्रस्ताव स्वीकार किये जाने की अधिकारिता नहीं होने से इस न्यायालय की राय में यह न्यायालय यदि कोई अधिनिर्णय पारित भी करता है तो वह क्षेत्राधिकार के अभाव का होकर शून्य होगा। इन न्यायनिर्णयों के खण्डन में या अन्य कोई न्यायनिर्णय ऐसा पेश भी नहीं किया गया जिसमें कि ऊपर वर्णित स्थिति होने के बावजूद भी न्यायालय को निर्देश अधिनिर्णित करने का अधिकार प्राप्त हो। अतः कुल मिलाकर स्थिति उक्त न्यायनिर्णयों के ही अभी तक प्रभावशील होने की पायी जाती है। माननीय उच्च न्यायालय एवं माननीय उच्चतम न्यायालय द्वारा पारित उक्त न्यायनिर्णयों में प्रतिपादित सिद्धांतों से यह न्यायालय आबद्ध है। अतः ऐसी परिस्थिति में सम्पूर्ण विवेचन के उपरान्त इस न्यायालय की राय में इतना ही कहना पर्याप्त है कि हस्तगत निर्देश/ रेफ्रेन्स में प्रार्थी श्रमिक को अप्रार्थी नियोजक द्वारा कौनसी तिथि से सेवा पृथक किया गया है, ऐसी तिथि का कोई अंकन नहीं होने से यह न्यायालय ऐसे निर्देश में कोई संशोधन कर अधिनिर्णय पारित करने की अधिकारिता नहीं रखता है एवं यदि पक्षकार सक्षम सरकार से इस बाबत निर्देश/ रेफ्रेन्स में संशोधन कराकर न्यायालय में पेश करते हैं तो न्यायालय ऐसा संशोधन प्राप्त होने पर प्रकरण में विधि अनुसार कार्यवाही कर सकेगा, परन्तु इस प्रक्रम पर फिलहाल यह मामला इस न्यायालय के क्षेत्राधिकार के अभाव का पाया जाता है।

परिणामस्वरूप भारत सरकार, श्रम मंत्रालय, नई दिल्ली द्वारा प्रासांगिक आदेश दिनांक 13/11/2002 के जरिये सम्प्रेषित निर्देश/रेफ्रेन्स विवाद को इसी अनुरूप उत्तरित किया जाता है कि माननीय राजस्थान उच्च न्यायालय द्वारा पारित उक्त न्यायदृष्टांत "2003 डबल्यू.एल.सी.(राज.) यू.सी. पृष्ठ 424—महावीर कण्डक्टर बनाम नन्दकिशोर" में प्रतिपादित सिद्धांत के अनुसरण में हस्तगत निर्देश/रेफ्रेन्स में वर्णित प्रार्थी श्रमिक महेश कुमार दुबे को अप्रार्थी नियोजक द्वारा कौनसी तिथि को सेवा से पृथक किया गया है, ऐसी तिथि का कोई अंकन नहीं होने से व इस न्यायालय को पक्षकारों द्वारा सुझायी गयी तिथि को स्वीकार किये जाने की अधिकारिता नहीं होने से हस्तगत निर्देश/रेफ्रेन्स में अधिनिर्णय पारित किया जाना शून्य एवं क्षेत्राधिकार के अभाव का होगा। पक्षकार यदि सक्षम सरकार से उक्त तिथि बाबत निर्देश/रेफ्रेन्स में संशोधन/अंकन कराकर न्यायालय के समक्ष पेश करेंगे तो न्यायालय गुणावगुण के आधार पर विधि अनुसार आगे प्रकरण के निस्तारण की कार्यवाही कर सकेगा।

जगमोहन शर्मा, न्यायाधीश

नई दिल्ली, 30 मई, 2017

का.आ. 1373.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स सेन्ट्रल वेयरहाउसिंग कार्पोरेशन एवं अन्य के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, नई दिल्ली के पंचाट (संदर्भ संख्या 73/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.05.2017 को प्राप्त हुआ था।

[सं. एल-42011/4/2016-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 30th May, 2017

S.O. 1373.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 73/2016) of the Central Government Industrial Tribunal/Labour Court-2, New Delhi now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Central Warehousing Corporation and other and their workman, which was received by the Central Government on 23.05.2017.

[No. L-42011/4/2016-IR (M)]

RAJESH KUMAR, Under Secy.

ANNEXURE**BEFORE SH. HARBANSH KUMAR SAXENA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II, KARKARDOOMA COURT COMPLEX, DELHI-110032****I.D. No. 73/2016**

General Mazdoor Lal Jhanda Union(Regd.),
13-A, Raouse Avenue, Vishnu Digambar Marg,
ITO, New Delhi-110002

Versus

1. The Management of Central Warehousing Corporation,
Scope Minar, Laxmi Nagar,
New Delhi – 110096
2. M/s. Suman Forwarding Agency Pvt. Ltd.,
ICD, Near Ghazipur Village, Patparganj,
New Delhi - 110096

NO DISPUTE AWARD

The Central Government in the Ministry of Labour *vide* Letter No. L-42011/4/2016-IR(M) Dated 03.06.2016 referred the following Industrial Dispute to this Tribunal for adjudication:-

“Whether the action of the managements in reducing the rates of wages from minimum wages for semi-skilled workers to minimum wages for unskilled workers per day in respect of the workmen given in the Annexure is illegal and/or unjustified and if so what relief they are entitled to and what direction are necessary in this regard?”

On 11.08.2016 reference was received in this Tribunal. Which was register as I.D. No. 73/2016 and claimant was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

Several opportunities given to workman to file his claim/statement but he failed. Hence his right of filing claim/statement has been closed on 30.03.2017.

I fixed 27.04.2017 for management to filing of response to reference if any. But on 27.04.2017 authorized person for the management refused to file response to reference.

Hence No Dispute Award was reserved.

In want of evidence of both parties it is a fit case to pass “No Dispute Award”.

Which is accordingly passed.

Dated : 03.05.2017

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 30 मई, 2017

का.आ. 1374.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स एयरपोर्ट अथॉरिटी ऑफ इंडिया (एचक्यू) के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, नई दिल्ली के पंचाट (संदर्भ संख्या 81/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.05.2017 को प्राप्त हुआ था।

[सं. एल-11011/19/2004-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 30th May, 2017

S.O. 1374.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 81/2004) of the Central Government Industrial Tribunal/Labour Court-2, New Delhi now as shown in the Annexure, in the industrial dispute between the employers in relation to the

management of M/s. Airport Authority of India (HQ) and their workman, which was received by the Central Government on 23.05.2017.

[No. L-11011/19/2004-IR (M)]

RAJESH KUMAR, Under Secy.

ANNEXURE

BEFORE SH. HARBANSH KUMAR SAXENA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II, KARKARDOOMA COURT COMPLEX, DELHI-110032

I.D. No. 81/2004

Bhartiya Engineering Tatha General Mazdoor Union,
Regd. No. 3606, Bharatmill, Charkhingate Mkt.
Plot No. 1, Near D Block, Karam Pura,
New Delhi.

Versus

The Chairman,
Airport Authority of India (HQ),
Gurgaon Road, Rangpuri,
New Delhi-110037.

AWARD

The Central Government in the Ministry of Labour *vide* Letter No. L-11011/19/2004-IR(M) dated 18.05.2004 referred the following Industrial Dispute to this Tribunal for adjudication :-

“Whether the demand of the Union for reinstatement of its workman namely, Smt. Vidya Devi, Sh. Pawan Kumar S/o Harkesh, Sh. Sunil Kumar S/o Sh. Ram Kumar, Sh. Ashwani Kumar S/o Sultan Singh, Sh. Shiv Narain S/o Sh. Ram Pasand, Sh. Sunil Kumar, S/o Sh. Om Prakash, Smt. Sairo Banu W/o Mohd. Asis and Smt. Bimla W/o Sh. Ramji Lal, all contract labourers in the establishment of AAI, New Delhi is just, fair and legal? If yes, to what relief these workmen are entitled and from which date?”

On 21.06.2004 reference was received in this Tribunal. Which was register as I.D No.81/2004 and claimants were called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

Workmen filed their claim statement before this Tribunal. Where-in they prayed as follows:-

“The workmen/claimants respectfully pray that their termination, service may be declare illegal, null void and inoperative and she may be ordered reinstatement in service as continuous service with all promotions, increments and the financial benefits of full back wages w.e.f the date of termination to the date of reinstatement and if the management does not consider, the case may please be referred to the CGIT for jurisdiction in the interest of justice .

Management filed written statement on 20.01.2005. Where-in management prayed as follows:-

“It is therefore, prayed that the claim of the claimants be dismissed with heavy cost in the interest of justice and /or pass any further order as this Hon’ble Tribunal deem fit and necessary in the facts and circumstances of this case.

Against written statement workmen filed rejoinder. Where-in in they re-affirmed the contents of claim statement.

On the basis of pleadings my Ld. Predecessor has not framed any issue and proceeded to decide the case. On the basis of question of determination mentioned in schedule of reference. Workmen Smt. Bimla Devi as WW1, Sh. Sunil Kumar as WW2 and Sh. Pawan Kumar as WW3 in support of their claim tendered their affidavits.

They were cross-examined by Ld. A/R for the management. Thereafter workmen closed their evidence.

Management in its turn of management evidence produced Sh. Girish Kumar, two times as MW1 & MW2 but their evidence is uncontroverted on the point of document marked as MW2/Y. Which indicates that name workman Smt. Bimla Devi does not find place in pay bill of November, 1996 .

In the pay bill of December, 1996 name of aforesaid workman finds place name appeared but father or husband name is not mentioned in this pay bill.

So far workmen Pawan Kumar and Sunil Kumar, workman are concerned their names doesnot appear in the pay bill of October, 1996 to December, 1996.

In the want of aforesaid required and material evidence claim of these workman appears to be fribulous and not proved.

It is also relevant to mention here that no other workman came forward to adduce his evidence in support of his case. So claim in support of other workman also appears to be fribulous and not proved .

On the basis of aforesaid discussion question of determination no. 1 which was to be proved by workmen has not been proved by them through required , reliable and credible evidence. Hence question of determination no. 1 is liable to be decided in favour of management and against workmen.

Which is accordingly decided.

Question of determination no. 2 is relating to relief to workmen.

As question of determination no. 1 has already been decided against workmen and in favour of management so this question of determination no.2 is liable to be decided against workmen and in favour of management.

Which is accordingly decided.

On the basis of aforesaid discussion I am of considered view that reference is liable to be decided in favour of management and against workmen.

Which is accordingly decided and claim statement is dismissed.

Award is accordingly passed.

Dated : 29.03.2017

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 30 मई, 2017

का.आ. 1375.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स इण्डियन ऑयल कार्पोरेशन लिमिटेड एवं अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, नई दिल्ली के पंचाट (संदर्भ संख्या 24/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.05.2017 को प्राप्त हुआ था।

[सं. एल-30011/72/2012-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 30th May, 2017

S.O. 1375.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 24/2013) of the Central Government Industrial Tribunal/Labour Court-1, New Delhi now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Indian Oil Corporation Ltd. and other and their workman, which was received by the Central Government on 23.05.2017.

[No. L-30011/72/2012-IR (M)]

RAJESH KUMAR, Under Secy.

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT NO.1, KARKARDOOMA COURT COMPLEX, DELHI

ID No. 24/2013

Shri Ravinder Jha, S/o Shri Bhagwat Jha, through
The Bhartiya Shramjivi Sangh (Regd.)
240 Western Wing, Lawyers Chambers,
Tis Hazari, Delhi 110 054

...Workman

Versus

- (I) Indian Oil Corporation Ltd.
Tikri Kalan Plant, Ghevera More,
Delhi 110 041
- (II) M/s Absolute Security Group (Regd.)
Satbir Rana Bhawan,
VPO Ghevera,
Delhi 110 081

...Management

AWARD

In the present case, a reference was received from Ministry of Labour and Employment vide letter No.L-30011/72/2012-IR(M) dated 01.02.2013 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(in short the Act) for adjudication of an industrial dispute, terms of which are as under:

‘Whether the action of the management of absolute Security Group in terminating the services of the workman, Shri Ravinder Jha, S/o Shri Bhagwat Jha with effect from 20.11.2011, is legal and justified? What relief the workman is entitled to?’

2. Claim was filed by Shri Ravinder Jha, the claimant herein, with the averments that he was working with management No.1 Indian Oil Corporation Ltd. management No.1 through M/s Absolute Security Group (Regd.) management No.2 as Soapman since 07.05.2010. He worked continuously till 20.11.2011 and his last drawn wages was Rs.4420.00. The claimant was denied various legal facilities, like appointment letter, attendance card, attendance register, pay slip, leave wages, earned leave, casual leave, overtime wages, ESI, minimum wages etc. The above facilities were demanded by the claimant, which annoyed the management, which finally culminated in termination of services of the claimant on 20.11.2011 without assigning any reason/service of charge sheet etc., in an illegal manner. No one month notice or pay in lieu thereof was given to the claimant. Wages of the claimant for the month of November 2011 have also not been paid to the claimant. It is further averred in the statement of claim that fresh hands have been hired thereafter and juniors to the claimant have been retained in service. Termination of the claimant amounts to violation of Section 25-F, G and H read with Rule 77 and 78 of the Industrial Dispute (Central) Rules. The claimant is unemployed since the date of his termination. Aggrieved by the action of the management, the claimant filed a case before the Conciliation Officer, but due to non-appearance of the managements, conciliation ended in a failure, hence the above reference. The claimant has finally prayed that he may be reinstated with full back wages.

2. Claim was demurred by management No.1, taking various preliminary objections, inter alia of the Tribunal not having powers to enlarge the scope of reference, there being no existence of employer/employee relationship between the claimant and management No.1, claim being vexatious and mischievous, non production of documents in support of the averments contained in claim statement etc. It is further averred that the claimant was employed by management No.2 and hence there was no occasion for the claimant to raise any demand with management No.1 nor there is any occasion for management No.1 to remain vindictive towards the claimant or to terminate him. In fact, it was management No.2 who was under an obligation to pay the alleged facilities/benefits to the claimant. However, as a principal employer, it was ensured that all statutory benefits are paid to the contract labour by the contractor. Finally, it is prayed that the claimant is not entitled to any relief from management No.1 as he was neither employed nor terminated by them.

3. M/s Absolute Security Group (regd), management No.2 was given various opportunities but none appeared on their behalf initially for around four dates of hearing. In the meanwhile, Shri Rajender Prasad, proprietor of management No.2 expired and notice was issued by this Tribunal to Ms.Gita Devi, legal heir of Shri Rajender Prasad. However, in spite of service of notice, none appeared on their behalf, as a result of which, on 07.11.2013 management No.2 was finally proceeded ex-parte.

4. My learned predecessor, vide order dated 07.11.2013, based on the pleadings of the parties, framed the following issues:

- (i) Whether there was privity of contract between the claimant and M/s Indian Oil Corporation Ltd.?
- (ii) As in terms of reference.

5. Claimant, in order to prove his case, examined himself as WW1 and tendered in evidence his affidavit Ex.WW1/A. He also relied on documents Ex.WW1/1 to 13. Management, in order to rebut the case of the claimant, examined Shri Sanjay Kumar, Deputy Manager(ER) as MW1, whose affidavit is Ex.MW1/A; however, no document was relied upon on behalf of the management.

6. I have heard Shri Rajesh Khanna, A/R for the claimant and Shri Sanjay Rawat, A/R for Indian Oil Corporation Ltd.

Issue No. 1

7. Management No.1 Indian Oil Corporation Ltd. has come with the specific plea that there was no relationship of employer and employee between the claimant and management No.1. Law is fairly settled that initial onus is always upon the claimant to prove that there is relationship of employer and employee in the manner alleged by the claimant. At this stage, it is also appropriate to refer to the pleadings contained in the statement of claim of the claimant as well as evidence adduced by the claimant in support of the said plea. It is averred in para 1 of the statement of claim that the claimant joined services as Soapman with effect from 07.05.2010 with management No.1 through management No.2. It is also the case of the claimant that he was engaged in fact by management No.2 so as to work in the premises of management No.1 as Soapman. During the course of arguments, this fact was not disputed that in fact claimant, along with his co-workers was working in the premises of management No.1 and the only dispute is whether he was directly engaged by management No.1 or it was management No.2 who has engaged services of the claimant to do the work of Soapman. Reference received by this Tribunal is also crystal clear that the Tribunal is required to adjudicate whether the management of management No.2 terminated services of the claimant with effect from 20.11.2011. There is no reference as to whether the claimant was in the direct employment of management No.1.

8. It is also appropriate to refer to the statement the claimant, Shri Ravinder Jha, whose affidavit is Ex.WW1/A and he has admitted in his cross-examination that he used to be paid wages in cash by an employee of the contract, in fact by one Shri Rajinder, who was making payment of salary through the contractor. He has further admitted that services of management No.2 was hired by management No.1 for rendering security and allied services. Though MW1 Shri Sanjay Kumar has admitted in his cross-examination that the claimant was working with the management but he has clarified that his services was engaged through management No. 2. Simply because claimant was working for the benefit of management No.1 would not legally be sufficient to hold that there was direct relationship of master and servant between the claimant and management No. 1, but even as per case of the claimant, management No. 1 has not directly engaged him and it was only management No. 2 who had hired services of the claimant and they were making payment of salary and wages to the claimant.

9. It is clear from pleadings of the parties in the present case that management No.1 has engaged services of management No. 2 for doing work of security etc. and services of the claimant was engaged by management No. 2 as contract labour. A Constitution Bench of Hon'ble Apex Court in Steel Authority of India Vs. National Union Water Front Workers (2001) 7 SCC 1 dealt with the definition of contract labour as contained in Contract Labour (Regulation and Abolition) Act, 1970. Hon'ble Apex Court also dealt with the scope and ambit of the expression 'appropriate Government' as used in Section 2(1) (a) of the CLRA Act. While considering the scope of the word, 'contract labour', as used in the above Act, it was observed as under:

By definition the term 'contract labour' is a species of workman where a workman is hired in or in connection with the work of an establishment by the principal employer through a contractor, he merely acts as an agent so there will be master and servant relationship between the principal employer and the workman. But where a workman is hired in or in connection with the work of an establishment by a contractor, either because he has undertaken to produce a given result for the establishment or because he supplies workman for any work of the establishment, a question might arise whether the contractor is a mere camouflage; if the answer is in the affirmative, the workman will be in fact an employee of the principal employer; but if the answer is in the negative, the workman will be a contract labour.

10. The question of status of such an employee whose services have been engaged through contract under the CLRA Act and was also incidental and it was argued with much vehemence that the so called contract labour engaged through contractors is in fact doing everything for the benefit of principal employer in whose premises such workmen are working, as such, they should be treated to be employees of the principal employer. This contention on behalf of the workmen was negated by the Hon'ble Apex Court, by observing as under:

'On exhaustive consideration of the provisions of the CLRA Act it has already been held herein that neither they contemplate creation of direct relationship of master and servant between the principal employer and the contract labour nor can such relationship be implied from the provisions of the Act on issuing notification under Section 10(1) of the CLRA Act, a fortiori much less can such a relationship be found to exist from the Rules and the Forms made thereunder'

11. Hon'ble High Court of Delhi in the case of Indira Gandhi Open University vs. Union of India (2016) LLR 12) almost under similar circumstances where services of the workmen were engaged through contract contractor and they were illegally terminated by the said contractor, the plea of the workmen holding them to be employees of the principal employer was rejected by the Hon'ble High Court and it was held that such employees were not engaged by the principal employer and in that eventuality, mere performing of work for principal employer or in the premises of the principal employer is not sufficient to establish relationship of employer and employee between the principal employer and the employees, when the contractor has admittedly engaged such employees.

12. In the light of the legal position discussed above, it is held that the claimant is not an employee of the principal employer, i.e. Indian Oil Corporation Ltd., who in fact is the principal employer who has engaged services of management No. 2 M/s. Absolute Security Group (Regd) for doing the work which was being done in the premises of management No.1.

Issue No. 2

13. Now, the vital question which arises for consideration is whether the management of M/s. Absolute Security Group has illegally terminated services of the claimant herein. It is appropriate to mention herein that Management No. 2 was given various opportunities but none appeared on their behalf initially for around four dates of hearing. In the meanwhile, Shri Rajender Prasad, proprietor of management No. 2 expired and notice was issued by this Tribunal to Ms. Gita Devi, legal heir of Shri Rajender Prasad. However, in spite of service of notice, none appeared on their behalf, as a result of which, on 07.11.2013 management No.2 was finally proceeded ex-parte. Management No.2 has neither filed any reply nor the contractor/his legal heirs appeared before this Tribunal so as to explain the manner in which services of the claimant herein was terminated. It is clear from the evidence adduced by the claimant that his services was terminated in an illegal manner. Admittedly, there is nothing on record to suggest that any notice under Section 25F of the Act or one month's salary in lieu thereof was paid to the claimant before ordering his termination. Neither the claimant nor the management No. 1, Indian Oil Corporation Ltd. have taken any steps to file on record copy of contract so as to show the terms or duration of the contract. It was, in fact, incumbent upon the principal employer, Indian Oil Corporation Ltd. to have filed and proved copy of the contract so as to prove that they had hired services of management No. 2 for providing security and allied services. Since management No. 2 has not appeared, this Tribunal is bound to draw adverse inference against management No.1.

14. It is pertinent to mention here that under Section 29 of the CLRA Act, every principal employer as well as every contractor is required to maintain such registers and records giving full particulars of the contract labour employed, nature of the work performed by such contract labour, register of wages to be paid in such form as may be prescribed. Rule 72 of the Contract Labour (Central Rules) 1971 deals with the presence of authorized representative at the place of disbursement of wages by the contractor to workmen and Rule 73 further provides that authorized representative of the principal employer shall record under his signature a certificate at the end of the entries in the Register of Wages in the following form:

“Certified that the amount shown in column No. ... has been paid to the workman concerned in my presence on at

15. Rule 74 deals with register of Contractors, which the principal employer is mandatorily required to maintain in respect of each contractor in form XII. Similarly, every contractor shall also maintain such register in form XIII in respect of workers employed at the establishment. Not only this, Rule 78 deals with the maintenance of muster roll, wage register, Overtime register etc. by the contractor. All these registers must remain up to date as required under Rule 80 and is to be complete in every respect and shall be kept at a place convenient to the workmen. Section 81(3) requires the principal employer to submit return to the Inspector within 15 days of the commencement or completion of each contract work under each contractor, intimating the exact date of commencement and completion in the prescribed form. It is, thus, clear from the provisions of the CLRA Act that the principal employer is also required to keep control on the contractor so as to ensure compliance of the provisions of CLRA Act. It does not lie in the mouth of the management to say that the management is not in possession of copies of the contract.

16. In view of the unrebutted evidence of the claimant and the fact that he has also raised dispute Ex.WW1/1. Representation was also made to management No. 2 vide Ex.WW1/2. It is further clear that vide Ex.WW1/3 industrial dispute was raised by the claimant regarding his illegal termination. There is also copy of the order Ex.WW1/4 passed under the Minimum Wages Act, which shows that the claimant has raised a demand for payment of minimum wages which was not being paid to him. Perusal of Ex.WW1/5 shows that he was issued I Card/Gate pass which mentions the name of management No.1.

17. Now, the vital question is as to what relief the claimant is entitled. There is no evidence on record to suggest that he was gainfully employed or was doing any work after his termination.

18. As a sequel to the discussions made hereinabove, it is held that termination of the claimant is per se illegal and in violation of provisions of the Act. This Tribunal is of the opinion that the claimant is entitled to reinstatement and entitled to full back wages, for the period contract existed between management No.1 and management No. 2. It is, further, clarified that in case management No. 2 is not in a position to make payment, it would be the vicarious liability of management No.1, being the principal employer, to make payments, as above. An award is, accordingly, passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : May 16, 2017

A. C. DOGRA, Presiding Officer

नई दिल्ली, 30 मई, 2017

का.आ. 1376.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स आर. के. मार्बल के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, उदयपुर (राजस्थान) के पंचाट (संदर्भ संख्या 02/2017) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.05.2017 को प्राप्त हुआ था।

[सं. जेड-16025/3/2017-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 30th May, 2017

S.O. 1376.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 02/2017) of the Central Government Industrial Tribunal/Labour Court, Udaipur (Rajasthan) now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. R. K. Marbale and their workman, which was received by the Central Government on 23.05.2017.

[No. Z-16025/3/2017-IR (M)]

RAJESH KUMAR, Under Secy.

सेवा में

श्रीमान् न्यायाधीश महोदय,
औ.वि. अधिकरण एवं श्रम न्यायालय,
उदयपुर

अधिकरण (धारा 2 A में)

प्रकरण संख्या 02 सन् 2017 I.T.R.

सज्जनसिंह राव बनाम महाप्रबन्धक, आर के मार्बल

निवेदन है कि उक्त प्रकरण में प्रार्थी तथा विपक्षी का प्रकरण आप न्यायालय में विचाराधीन है। उक्त प्रकरण में हम पक्षकारों के बीच लोक अदालत की भावना से आपसी सुलह हो चुकी है, एवं अब हमारे बीच कोई विवाद नहीं रहा है। हमारा आपसी राजीनामा निम्नानुसार तय हुआ है —

प्रार्थी को विपक्षी संस्थान बतौर क्षतिपूर्ति एक मुश्त रुपये 2,36,155/— अक्षरे दो लाख छत्तीस हजार एक सौ पचपन मात्र अदा करेगा। तथा उक्त क्षतिपूर्ति की राशि 30 दिन की अवधि में जमा करायेगा, अन्यथा उक्त राशि पर अवार्ड की तारीख से 10 प्रतिशत वार्षिक दर से ब्याज देय होगा।

प्रार्थी व विपक्षी के मध्य इस प्रकरण के सम्बन्ध में फूल एण्ड फाईनल सेटलमेन्ट हो गया है। प्रार्थी इसके अलावा ग्रेज्यूटी एवं सेवा सम्बन्धी अन्य विवाद नहीं उठा सकेगा।

अतः श्रीमान् से निवेदन है कि उक्त राजीनामा तस्दीक कर मुकदमें का निस्तारण किये जाने का आदेश प्रदान करावें

—अपठनीय—

हस्ताक्षर प्रार्थी

—अपठनीय—

हस्ताक्षर विपक्षी
प्रबंधक (कार्मिक)

—अपठनीय—

हस्ताक्षर अधिवक्ता प्रार्थी

—अपठनीय—

हस्ताक्षर अधिकार विपक्षी

दिनांक 11.02.2017

राजीनामा पेश हुआ। दोनों पक्षों ने राजीनामा स्वैच्छा से करना स्वीकार किया। अतः राजीनामा तस्दीक किया जाता है। उक्त राजीनामा के अनुसार प्रार्थी सज्जनसिंह राव के पक्ष में एवं विपक्षी आर के मार्बल के विरुद्ध बतौर क्षतिपूर्ति रुपये 236155/- अक्षरे दो लाख छत्तीस हजार एक सौ पचपन रुपये मात्र का अन्तिम अवार्ड पारित किया जाता है। राजीनामा शामिल पत्रावली रहे।

उक्त क्षतिपूर्ति राशि विपक्षी संस्थान आज से 30 दिन की अवधि में अदा करे, अन्यथा अवार्ड राशि पर आज दिनांक से वसूली तक 10 प्रतिशत वार्षिक दर से ब्याज देय होगा।

दिनांक 11.02.2017

अरुण गुप्ता, न्यायाधीश

नई दिल्ली, 30 मई, 2017

का.आ. 1377.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स राजस्थान स्टेट माईन्स एण्ड मिनरल्स लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, उदयपुर (राजस्थान) के पंचाट (संदर्भ संख्या 01/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.05.2017 को प्राप्त हुआ था।

[सं. एल-29012/28/2004-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 30th May, 2017

S.O. 1377.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 01/2004) of the Central Government Industrial Tribunal/Labour Court, Udaipur (Rajasthan) now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Rajasthan State Mines and Minerals Limited and their workman, which was received by the Central Government on 23.05.2017.

[No. L-29012/28/2004-IR (M)]

RAJESH KUMAR, Under Secy.

अनुबंध

औद्योगिक विवाद अधिकरण एवं श्रम न्यायालय, उदयपुर (राजस्थान)

पीठासीन अधिकारी — श्री अरुण गुप्ता

प्रकरण संख्या 01/2004 I.T.R.

श्री धुलजी पिता लालूजी
निवासी गांव कोवाणिया,
तहसील घाटोल जिला बांसवाडा

... प्रार्थी

विरुद्ध

1. श्री प्रबन्धक, राजस्थान स्टेट माईन्स एण्ड मिनरल्स लिमिटेड
कार्यालय सी 89, 90 जनपथ, लाला कोठी स्कीम, जयपुर
2. श्री प्रबन्धक (कार्मिक एवं प्रशासन) राजस्थान स्टेट माईन्स एण्ड मिनरल्स लि0
मीरा मार्ग, उदयपुर

... विपक्षीगण

उपस्थित :

प्रार्थी की ओर से : श्री सी.पी. शर्मा, अधिवक्ता
विपक्षी की ओर से : श्री संजय सोनी, अधिवक्ता

: : पंचाट : :

दिनांक 22 दिसम्बर, 2016

भारत सरकार के श्रम विभाग की अधिसूचना क्रमांक L-29012/28/2004-IR(M), New Delhi दिनांक 29.04.2004 तथा शुद्धि पत्र दिनांक 17.10.2005 के द्वारा निम्नांकित विवाद इस न्यायालय को अधिनिर्णयार्थ प्रेषित किया गया —

“Whether the action of the management of RSMM Ltd. in terminating the services by compulsory retirement of Sh. Dhulji S/o Laluji R/o Ghatol, Distt. Banswara w.e.f. 3/3/98 is justified? If not, to what relief the workmen is entitled?”

उक्त आशय का प्रसंग प्राप्त होने पर न्यायालय द्वारा प्रकरण दर्ज रजिस्टर किया गया एवं सम्बन्धित पक्षकारान को नोटिस जारी किये गये। जिस पर प्रार्थी की और से क्लेम व विपक्षी की और से जबाब पेश किया गया।

प्रार्थी द्वारा इस प्रकारण में दिनांक 08.11.04 को क्लेम प्रार्थना पत्र प्रस्तुत किया गया एवं बाद में अधिसूचना में संशोधन होने के पश्चात् दिनांक 01.04.08 को संशोधित क्लेम पेश किया। जिस संशोधित क्लेम के तथ्य संक्षेप में इस प्रकार है कि— प्रार्थी की नियुक्ति विपक्षीगण के अधीन माही ग्राफाईट प्रोजेक्ट, बांसवाड़ा में सहायक के पद पर की गई। विपक्षी द्वारा 1997 में स्वैच्छिक सेवा निवृत्ति की योजना लागू की गई, तब प्रार्थी को स्वैच्छिक सेवा निवृत्ति हेतु दबाव डाला व इन्कार कर देने पर उसका हनुमानगढ स्थानान्तरण कर दिया गया। जिस पर प्रार्थी हनुमानगढ ड्यूटी जोईन करने गया तो उसे उपयुक्त सुविधा नहीं दी व परेशान किया जिससे वह बीमार हो गया, तब विपक्षी ने ज्ञापन संख्या 505 दिनांक 10.10.97 द्वारा प्रार्थी को दिनांक 02.08.97 से जानबूझकर अनुपस्थित रहने का आरोप लगा आरोप पत्र दिया, जिसका प्रार्थी ने उत्तर प्रस्तुत किया व जांच अधिकारी ने जांच कर रिपोर्ट पेश की तथा उसे आदेश दिनांक 28.02.98/3.3.98 द्वारा अनिवार्य सेवा निवृत्ति के दण्ड से दण्डित किया। उक्त आदेश के विरुद्ध प्रार्थी ने अपील पेश की जो आंशिक रूप से स्वीकार करते हुए मामला अधिशाषी निदेशक को इस आदेश के साथ प्रेषित किया कि वे अपीलकर्ता को सुनवाई का अवसर देकर मामले में पुनः नये सिरे से निर्णय करें। उसके बावजूद उसे नये सिरे से सुनवाई के पूर्व ड्यूटी पर नहीं लिया। प्रार्थी को नोटिस देकर उसका जबाब आने पर आदेश दिनांक 7/8.3.2000 द्वारा दुर्भावना पूर्वक आदेश को यथावत रखा। विपक्षी ने समझौता कार्यवाही के दौरान इस सन्दर्भ में यह मत प्रकट किया कि प्रार्थी की अपील स्वीकार होकर नये सिरे से सुनवाई करने से पूर्व प्रार्थी ड्यूटी पर उपस्थित नहीं हुआ। प्रार्थी ने इस दण्ड के विरुद्ध अपने अधिवक्ता द्वारा दिनांक 5.9.02 को विपक्षीगण को नोटिस दिलाया जिसके जबाब में विपक्षी ने प्रार्थी की सेवा मुक्ति को उचित मानते हुए पी.एफ. की राशि प्राप्त करने हेतु फार्म भेजे। दिनांक 17.10.02 को प्रार्थी ने पुनः एक प्रतिनिधित्व देकर उसे दिये दण्ड को निरस्त करने व पुनः ड्यूटी पर लिये जाने की मांग की, किन्तु विपक्षी ने कोई प्रत्युत्तर नहीं दिया। प्रार्थी के विरुद्ध की गई जांच में प्राकृतिक न्याय के सिद्धान्तों की अवहेलना की गई है, प्रार्थी को सुनवाई का समुचित अवसर प्रदान नहीं किया है। प्रार्थी की सेवा 15 वर्ष की थी फिर भी उसे अनिवार्य होने सेवा निवृत्ति के दण्ड से दण्डित किया जो क्वान्टम से अधिक होने से निरस्त होने योग्य है। इसलिये प्रार्थना की, कि विपक्षी द्वारा जो सेवा मुक्ति का दण्ड दिया गया है वह अनुचित एवं अवैध है, इसलिये उसे उक्त तिथि से सभी लाभों सहित पुनः सेवा में लिये जाने का आदेश व प्रदान कराया जावे।

विपक्षी ने अपने जबाब में यह आपत्ति की कि प्रार्थी द्वारा जो दावा पेश किया है प्रार्थी ने संशोधित रेफरेन्स आदेश दिनांक 17.10.05 के बावजूद सेवा निवृत्ति की दिनांक 03.03.98 का अपने संशोधित दावे में उल्लेख नहीं किया, इससे स्पष्ट है कि प्रार्थी संशोधित रेफरेन्स से सहमत न होकर पूर्व के रेफरेन्स के अनुसार ही अपना दावा चलाना चाहता है। चूंकि दावे में रेफरेन्स में सेवा निवृत्ति की तारीख का उल्लेख नहीं करने से प्रार्थी का क्लेम विधि अनुसार चलने योग्य नहीं है। विपक्षी ने अपने जबाब में यह अंकित किया है कि प्रार्थी की नियुक्ति सहायक के पद पर नहीं की गई थी, बल्कि प्रार्थी की नियुक्ति अकुशल श्रमिक के रूप में दैनिक वेतन पर 1977 में की गई थी। उन्होंने इस तथ्य को गलत बताया कि सेवा निवृत्ति योजना 1997 में लागू की गई हो बल्कि यह योजना 1990 से लागू थी। इस तथ्य को भी गलत बताया कि प्रार्थी पर स्वैच्छिक सेवा निवृत्ति हेतु दबाव डाला हो, व उसके द्वारा इन्कार करने पर उसका स्थानान्तरण हनुमानगढ कर दिया गया हो बल्कि विपक्षी ने आदेश दिनांक 11.07.97 द्वारा 6 कर्मचारियों के स्थानान्तरण किये थे। प्रार्थी ने उक्त स्थानान्तरण आदेश की पालना में हनुमानगढ जाकर 28.07.97 को ड्यूटी जोईन की। प्रार्थी को कोई सुविधा न देने या परेशान करने की कोई शिकायत उसने कभी नहीं की। प्रार्थी को आरोप पत्र दिया जिसका प्रार्थी ने कोई उत्तर नहीं दिया इस पर जांच अधिकारी नियुक्त किया जिसने सक पक्षीय जांच की व प्रार्थी पर लगाए आरोपों को प्रमाणित माना जिस पर प्रार्थी ने अपील प्रस्तुत की, जिसमें प्रार्थी को पुनः सुनवाई का अवसर दिये जाने व पुनः जांच किये जाने का आदेश दिया। जिसमें प्रार्थी ने बदनियती से स्थानान्तरण व बीमारी के कारण अनुपस्थित रहने के सम्बन्ध में कोई प्रमाण पेश नहीं किये। प्रार्थी द्वारा जो प्रार्थना पत्र दिनांक 17.10.02 को प्रस्तुत किया, जिसका कोई आधार नहीं था इसलिये उसका जबाब देने का कोई औचित्य नहीं था। प्रार्थी अनिवार्य सेवा निवृत्ति के दण्ड से दण्डित होने के पश्चात् गेनफूली एम्प्लोईड रहा। इसलिये प्रार्थी का प्रार्थना पत्र निरस्त किये जाने की प्रार्थना की।

पूर्व में न्यायालय द्वारा घरेलू जांच की वैधता पर बहस सुनी जाकर आदेश दिनांक 04 अगस्त, 2011 से विपक्षी द्वारा की गई घरेलू जांच को दूषित (Un-fair) घोषित किया गया था। जिस पर विपक्षी द्वारा प्रार्थी पर लगे आरोपों को सिद्ध करने हेतु राजीव लोचन, शिशुपालसिंह के शपथ पत्र पेश किये जिनसे प्रार्थी प्रतिनिधि ने जिरह की। प्रतिरक्षा में प्रार्थी की और से स्वयं धुलजी का शपथ पत्र पेश हुआ, जिससे विपक्षी प्रतिनिधि ने जिरह की। दोनों पक्षों की और से संबंधित दस्तावेजों को प्रदर्शित कराया।

उभय पक्षकारान की बहस सुनी गई। पत्रावली का अवलोकन किया गया।

इस प्रकरण में विपक्षी द्वारा प्रार्थी को एक ज्ञापन संख्या 5057 जारी किया गया। जिसके साथ अभिकथनों का विवरण आदि भी जारी किया गया। जिसमें प्रार्थी पर यह आरोप लगाया गया था कि प्रार्थी का पदस्थापन हनुमानगढ़ होने के कारण वे दिनांक 02.08.97 से आज तक यानि ज्ञापन दिये जाने की दिनांक 17.10.97 तक जान बूझकर अपने कार्यस्थल से अनुपस्थित चल रहे हैं। इन अभिकथनों में यह भी अंकित किया गया है, कि प्रार्थी को रजिस्टर्ड पत्र संख्या 1663 दिनांक 06.09.97 के द्वारा भी अनुपस्थित रहने के सम्बन्ध में पत्र प्राप्ति के तीन दिवस के भीतर उपस्थित होने तथा लिखित में स्पष्टीकरण प्रस्तुत करने हेतु निर्देश दिये थे, लेकिन प्रार्थी धुलजी ने न तो कोई सूचना दी, न ही उपस्थित हुआ। इस सम्बन्ध में जांच कार्यवाही की गयी। जिस जांच कार्यवाही में यह अंकन है कि आरोपी को नोटिस तामील हो चुका है, उसके बावजूद भी प्रार्थी जांच कार्यवाही में उपस्थित नहीं हुआ।

इस सम्बन्ध में विपक्षी गवाह राजीव लोचन ने अपने शपथ पत्र में यह कथन किया है कि धुलजी ने दिनांक 28.07.97 को हनुमानगढ़ जाकर ड्यूटी जोईन की जहां प्रार्थी को समस्त सुविधाएं दी गयी। तत्पश्चात प्रार्थी धुलजी ने बगैर किसी ईजाजत के, बगैर आवेदन के काम पर आना बन्द कर दिया। जिस पर उसे विधिवत सूचना दी गयी, नोटिस जारी किया गया। जांच कार्यवाही हेतु भी उसे सूचना दी गयी, लेकिन इन सबके बावजूद भी प्रार्थी उपस्थित नहीं हुआ। जिस पर उसे सेवानिवृत्ति के दण्ड से दण्डित किया गया। उक्त आदेश के विरुद्ध प्रार्थी धुलजी द्वारा अपील पेश की गयी। जिसमें प्रार्थी द्वारा कोई ठोस प्रमाण या चिकित्सा प्रमाण पत्र प्रस्तुत नहीं किया गया। जिस कारण उसकी अपील भी अस्वीकार की गयी। जिस पर अनुशासनात्मक अधिकारी ने धुलजी पर लगाये गये आरोप को प्रमाणित मानते हुवे दण्डादेश दिनांक 28.02.98/03.03.98 में कोई परिवर्तन नहीं मानते हुवे अनिवार्य सेवानिवृत्ति के दण्डादेश को यथावत रखा। इस गवाह से जिरह करने पर इसने इस तथ्य को गलत बताया कि धुलजी पर VRS हेतु दबाव डाला गया हो। इस गवाह ने यह कहा है कि उसने रेकार्ड के आधार पर बयान दिये हैं, जो न्यायालय में पेश किया है।

विपक्षी गवाह शिशुपाल ने अपने शपथ पत्र में यह कहा कि उनके अधीन प्रार्थी धुलजी कार्यरत था, जो दिनांक 02.08.97 से 12.09.97 तक लगातार अनुपस्थित रहा था तथा इस गवाह द्वारा दिनांक 03.09.97 को धुलजी को एक पत्र ड्यूटी पर अनुपस्थित होने के सम्बन्ध में प्रदर्श ए-5 जारी किया था। जिस पर धुलजी द्वारा प्रदर्श ए-6 स्पष्टीकरण दिया गया था, जिसके समर्थन में कोई दस्तावेज बीमारी बाबत प्रस्तुत नहीं किया गया था। जिरह में इस गवाह ने यह कहा है कि धुलजी द्वारा प्रदर्श ए-6 माईनिंग इन्जिनियर के समक्ष पेश किया था, प्रदर्श ए-5 की एक प्रति खनि अभियंता को दी थी।

प्रार्थी ने इस सम्बन्ध में अपने शपथ पत्र में यह अंकित किया है कि दिनांक 02.08.97 से 12.09.97 कि स्वास्थ्य खराब होने के कारण वह ड्यूटी पर उपस्थित नहीं हो सका था।

साक्ष्य के उक्त विवेचन से यह स्पष्ट होता है कि प्रार्थी दिनांक 02.08.97 से 12.09.97 तक ड्यूटी पर उपस्थित नहीं हुआ था। प्रार्थी ने उक्त अनुपस्थिति का कारण अचानक बीमार होना बताया है। प्रार्थी ने अपने शपथ पत्र में यह अंकित किया है उसने दिनांक 11.09.97 को ड्यूटी पर उपस्थित होते ही बीमारी से सम्बन्धित समस्त कागजात विपक्षीगण को सौंप दिये थे।

विपक्षी अधिवक्ता द्वारा प्रार्थी से काफी लम्बी जिरह की गयी है। जिरह में प्रार्थी ने यह कहा है कि उसे VRS के लिये बाध्य करने वाला अधिकारी माईन्स ईन्जिनियर के पद पर था। उस अधिकारी का पूरा नाम उसे पता नहीं। किस तारीख को उसे कहा यह भी उसे याद नहीं। उसे VRS के लिये 20-25 मजदूरों के सामने इन्जिनियर ने कहा था, लेकिन उसने मना कर दिया। इस गवाह ने अपनी जिरह में यह भी कहा कि मेरा किसी अधिकारी से कोई लड़ाई झगडा नहीं था। अधिकारियों का भी मेरे से कोई झगडा नहीं था। इस प्रकार प्रार्थी को VRS के लिये दबाव डाला हो यह तथ्य भी प्रमाणित नहीं होता है तथा VRS के कारण उसका स्थानान्तरण किया गया हो यह भी स्पष्ट नहीं होता है।

प्रार्थी पर VRS के लिये दबाव डाला हो, यह प्रमाणित नहीं है। भारत सरकार द्वारा जारी अधिसूचना दिनांक 19 फरवरी, 2003 में यह अंकन है कि RSMM के अधिकारी एवं कर्मचारी के हितों पर कोई प्रतिकूल प्रभाव नहीं पड़े इसलिये उनके समायोजन किये जाने थे, और इन्हीं समायोजन के कारण प्रदर्श ए-1 के जरिये प्रार्थी धूलजी के साथ अन्य कर्मचारियों का भी समायोजन किया गया था। जिस पर अन्य कर्मचारियों के साथ प्रार्थी ने भी एक बार तो अपनी ड्यूटी जोईन की थी। साक्ष्य से यह भी सिद्ध नहीं है कि प्रार्थी का स्थानान्तरण बर्दानती पूर्वक किया गया हो बल्कि भारत सरकार द्वारा जारी अधिसूचना के क्रम में समायोजन किया गया था।

प्रार्थी ने अपने शपथ पत्र में यह कहा है कि उसने बीमारी से सम्बन्धित कागजात विपक्षी को सौंप दिये थे। इस सम्बन्ध में उससे जिरह की गयी तो उसने कहा कि मेरा इलाज रावतसर के सरकारी अस्पताल में चला था। अस्पताल का नाम याद नहीं। वह अस्पताल में तीन दिन भर्ती रहा। उसे भर्ती का कार्ड दिया था, जो वहां पर जमा कर लिया था। अस्पताल से मुझे भर्ती का कोई कागज नहीं दिया था। फिर कहा कि कागज वहां रह गया था। इस प्रकार एक बार तो यह गवाह कहता है कि उसे भर्ती का कार्ड दिया था जो वहां पर जमा कर लिया गया। फिर कहता है कि अस्पताल से भर्ती का कोई कागज नहीं दिया था। फिर कहता है कि कागज वहां रह गया था। इस प्रकार प्रार्थी बार-बार अपने बयानों को बदल रहा है।

जब किसी व्यक्ति का किसी सरकारी अस्पताल में इलाज चलता है और वह भर्ती रहता है तो उसे अवश्य ही भर्ती का कार्ड दिया जाता है। यदि एक क्षण के लिये यह भी माल लें वह कागज वहां रह गया था तो प्रार्थी के पास इतना पर्याप्त अवसर था कि वह सरकारी अस्पताल से उन दस्तावेजों की प्रतियां लेकर भी अनुशासनात्मक प्राधिकारी के समक्ष या अपनी अपील में भी वह उक्त दस्तावेज की प्रतियां पेश कर सकता था या फिर न्यायालय में भी उक्त दस्तावेज की प्रतियां पेश कर सकता था। लेकिन उसने ऐसा कोई प्रयास नहीं किया।

एक तरफ तो प्रार्थी दिनांक 02.08.97 से 12.09.97 तक स्वास्थ्य खराब होने के कारण ड्युटी पर उपस्थित नहीं होना कहता है, जबकि अपनी जिरह में अस्पताल में तीन दिन भर्ती रहने का कथन करता है। इससे भी इस गवाह की विश्वसनीयता खण्डित होती है।

प्रार्थी ने अपने शपथ पत्र की कलम संख्या 6 में यह कथन किया है कि दिनांक 02.08.97 से 12.09.97 तक स्वास्थ्य अचानक खराब होने के कारण वह ड्युटी पर उपस्थित नहीं हो सका तथा इसी पेशा में प्रार्थी आगे यह कथन करता है कि विपक्षी का पत्र दिनांक 06.09.97 प्राप्त हुआ। जिसका उसने दिनांक 11.09.97 को उपस्थित होकर जवाब दिया। शपथ पत्र की कलम संख्या 9 में यह कथन किया है कि उसने दिनांक 11.09.97 को ड्युटी पर उपस्थित होते ही बीमारी से सम्बन्धित समस्त कागजात विपक्षीगण को सौंप दिये थे। जब प्रार्थी दिनांक 12.09.97 तक बीमार होने का कथन करता है तो फिर उसके एक दिन पूर्व 11.09.97 को वह किस प्रकार उपस्थित हुआ व किस प्रकार बीमारी से सम्बन्धित कागजात विपक्षी को सौंपे?

इस प्रकार प्रार्थी एक बार तो मात्र तीन दिन भर्ती रहने का कथन करता है, एक बार दिनांक 02.08.97 से 12.09.97 तक स्वास्थ्य खराब होना बताता है, एक बार दिनांक 11.09.97 को उपस्थित होकर कागजात पेश करना कहता है। इस प्रकार प्रार्थी बार-बार विरोधाभासी कथन करता है।

खान प्रबन्धक पल्लू जिप्सम खान द्वारा प्रार्थी को प्रदर्श ए-5 दिनांक 03.09.97 सूचना पत्र ड्युटी से अनुपस्थित रहने के सम्बन्ध में जारी किया था, जिसका जवाब प्रार्थी ने प्रदर्श ए-6 पेश किया। जिसमें भी उसने यह अंकित किया कि उसका स्वास्थ्य अचानक खराब होने की वजह से उसे घर जाना पड़ा। इसी वजह से ड्युटी से अनुपस्थित रहना पड़ा। इससे भी यह प्रकट होता है कि प्रार्थी अपनी ड्युटी से अनुपस्थित था। इसमें भी प्रार्थी ने अपना स्वास्थ्य खराब होना व भर्ती होना अंकित किया है, लेकिन जैसा कि उपर विवेचन किया जा चुका है कि प्रार्थी ने अपनी बीमारी से सम्बन्धित व भर्ती होने के सम्बन्धित कोई दस्तावेज न तो जांच अधिकारी के समक्ष उपस्थित होकर पेश किये, न ही अपील में पेश किये और न ही न्यायालय में पेश किये। प्रदर्श ए-10 में भी यह अंकित किया गया है कि प्रार्थी दिनांक 02.08.97 से 12.09.97 तक तथा 01.11.97 से 29.11.97 तक बिना प्रार्थना पत्र के ड्युटी से गायब रहा। इसका प्रमाण उपस्थिति पंजिका भी है।

अधिशिषी निदेशक जयपुर द्वारा जारी आदेश प्रदर्श ए-18 में भी यह अंकन है कि बीमारी के कारण अनुपस्थित रहना प्रार्थी ने कहा लेकिन व्यक्तिगत सुनवाई के दौरान उन्होंने कोई चिकित्सा प्रमाण पत्र प्रस्तुत नहीं किया, न ही किसी चिकित्सालय में लिये गये इलाज का कोई सबूत पेश किया। प्रार्थी ने अपनी जिरह में यह स्पष्ट कथन किये हैं कि उसका किसी अधिकारी से कोई लड़ाई झगडा नहीं था, अधिकारियों का भी उससे कोई झगडा नहीं था। जब प्रार्थी का किसी अधिकारी से झगडा नहीं था और अधिकारी का प्रार्थी से कोई झगडा नहीं था तो क्यों कर वे अधिकारी यह कहेंगे की प्रार्थी ने बीमारी से सम्बन्धित दस्तावेज पेश नहीं किये।

खनि अभियन्ता, हनुमानगढ द्वारा पत्र प्रदर्श ए-4 प्रार्थी को कार्य से जानबुझ कर अनुपस्थित होने के सम्बन्ध में प्रेषित किया था, जिसका जवाब प्रार्थी ने प्रदर्श ए-6 प्रस्तुत किया। इससे यह प्रकट होता है कि प्रार्थी को प्रदर्श ए-4 मिल गया था और वह सूचना पत्र जिस पते पर भेजा गया था, उसी पते पर प्रार्थी को प्रदर्श ए-1 भेजा गया था, और यह पत्र उसे नहीं मिला हो, यह नहीं माना जा सकता है। जब जांच कार्यवाही प्रारम्भ की गई उस जांच कार्यवाही में भी प्रथम पेशा में ही यह अंकन है कि आरोपी को नोटिस तामील हो चुका है। जब प्रार्थी ने अपनी जिरह में यह स्वीकार किया है कि उसका किसी अधिकारी से झगडा नहीं था और अधिकारी का भी उससे कोई झगडा नहीं था, तो क्यों कोई अधिकारी इस प्रकार का झूठा अंकन करेंगे। इससे यह भी प्रतीत होता है कि प्रार्थी जानबुझ कर जांच अधिकारी के समक्ष भी उपस्थित नहीं हुआ। यदि प्रार्थी वास्तव में बीमार हो गया था, तो वह जांच अधिकारी के समक्ष उपस्थित होकर इस सम्बन्ध में निवेदन कर सकता था, लेकिन प्रार्थी ने ऐसा कोई प्रयास नहीं किया, न ही इलाज से संबंधित कोई डिस्चार्ज कार्ड, कोई पर्ची, कोई बिल पेश पेश किया है, न ही किसी ऐसे गवाह को पेश किया कि प्रार्थी वास्तव में बीमार था। जबकि प्रार्थी के पास अपनी बीमारी से संबंधित दस्तावेज प्रस्तुत करने के अनुक अवसर थे, लेकिन इन सबके बावजूद प्रार्थी ने ऐसा कोई प्रयास नहीं किया है।

प्रार्थी ने अपने क्लेम प्रार्थना पत्र व शपथ पत्र में यह कहा कि बांसवाडा से हनुमानगढ स्थानान्तरण कर दिये जाने पर हनुमानगढ गया एवं ड्युटी जोईन की, परन्तु उसे वहां उपयुक्त सुविधा नहीं दी गई एवं परेशान किया गया। परिणाम स्वरूप वह बीमार हो गया। प्रार्थी को क्या सुविधा मिलनी चाहिए थी और क्या सुविधा नहीं दी गई, ऐसा कोई स्पष्ट कथन नहीं किया है। प्रार्थी ने यह भी कहा कि उसे परेशान किया गया, तो किस कर्मचारी/अधिकारी ने उसे किस प्रकार परेशान किया, यह भी नहीं बताया। इस सम्बन्ध में जिरह करने पर उसने कहा कि यादव साहब माईन्स इंजीनियर ने उसे परेशान किया था, जिसकी शिकायत की थी, शिकायत की प्रति यहां पेश नहीं की, शिकायत की इतल्ला थाने में नहीं दी, बल्कि हेड आफिस जयपुर में दी थी। लेकिन प्रार्थी द्वारा ऐसी किसी शिकायत के सम्बन्ध में न तो अपील अधिकारी के समक्ष उस शिकायत की प्रति पेश की, न ही न्यायालय में उस शिकायत की प्रति पेश की। यदि प्रार्थी को किसी कर्मचारी/अधिकारी ने परेशान भी किया होता तो प्रार्थी अपने साथ जिन व्यक्तियों का स्थानान्तरण हनुमानगढ क्षेत्र में किया था, उनमें से किसी को या जिसके सामने परेशान किया उनको भी पेश कर यह साबित कर सकता था कि उसे किस कर्मचारी/अधिकारी ने किस प्रकार परेशान किया या परेशान किया जा रहा है, लेकिन ऐसी कोई साक्ष्य भी प्रार्थी की ओर से पेश नहीं की गई।

समायोजन के कारण प्रार्थी का स्थानान्तरण किया गया था, लेकिन ऐसा प्रतीत होता है कि प्रार्थी न तो VRS लेना चाहता था और न ही स्थानान्तरण स्थान पर कार्य करना चाहता था। इसीलिये प्रार्थी जानबुझ कर दिनांक 02.08.97 से दिनांक 12.09.97 तक अनुपस्थित रहा। प्रदर्श ए-10 के अन्तिम पेशा के अनुसार प्रार्थी दिनांक 02.08.97 से 12.09.97 से तथा दिनांक 01.11.97 से 29.11.97 तक जान-बूझकर बिना प्रार्थना पत्र के ड्युटी से गायब रहा उसका प्रमाण उपस्थिति पंजिका भी है। दिनांक 01.11.97 से अनुपस्थिति बाबत आदेश दिनांक 03.03.98 में भी हवाला है तथा प्रदर्श ए-8 में भी प्रार्थी धुलजी का दिनांक 01.11.97 से जानबूझकर अपने कार्य से लगातार अनुपस्थित रहने

का आरोप उचित माना है लेकिन जैसा की जांच अधिकरी ने वक्त जांच उपस्थिति पंजिका का निरीक्षण किया था, जिसमें भी उक्त दिवसों की अनुपस्थिति दर्ज होने का अंकन है। इससे भी यह प्रतीत होता है कि प्रार्थी अपनी ड्यूटी के प्रति लापरवाह रहा है।

प्रार्थी ने अपने अधिवक्ता के माध्यम से प्रदर्श ए-23 नोटिस विपक्षी के नाम जारी कराया था। जिस नोटिस का जवाब में वरिष्ठ प्रबन्धक (कार्मिक एवं प्रशासन) ने दिया था एवं भविष्य निधि एवं उपादन प्राप्त करने हेतु निर्धारित प्रपत्र की प्रतियां प्रेषित कर यह लिखा था कि प्रार्थी नियमानुसार भुगतान प्राप्त कर ले। यदि विपक्षी की मंशा प्रार्थी को परेशान करने की होती या दुर्भावनावश उसका स्थानान्तरण किया होता तो विपक्षी प्रार्थी को उक्त राशि प्राप्त करने हेतु प्रपत्र प्रेषित नहीं करता। इससे यह तो प्रतीत होता है कि प्रार्थी का अपनी ड्यूटी के प्रति लापरवाह होने के बावजूद भी विपक्षी उसे VRS पर जो लाभ मिलने चाहिये थे वह देने को तैयार है। न तो प्रार्थी ने ऐसा कोई कथन किया है कि उसे सेवा पृथक किये जाने के बाद विपक्षी उसे VRS के समय मिलने वाले लाभों से वंचित कर रहा है न ही विपक्षी का यह कथन है कि इस अनिवार्य सेवा निवृत्ति के दण्ड के कारण प्रार्थी को मिलने वाले लाभ देय नहीं है।

उपरोक्त विवेचन के आधार पर विपक्षी द्वारा पारित आदेश दिनांक 28.02.98/03.03.98 प्रदर्श ए-11 एवं आदेश दिनांक 7/8.3.2000 प्रदर्श ए-18 द्वारा अनिवार्य सेवा निवृत्ति के दण्ड से दण्डित किया जाना उचित एवं वैध है।

अतः भारत सरकार द्वारा प्रेषित प्रसंग दिनांक 29.04.2004 एवं संशोधित अधिसूचना दिनांक 17.10.2005 को उत्तरित करते हुये पंचाट इस प्रकार पारित किया जाता है कि— विपक्षी RSMM Ltd. द्वारा प्रार्थी श्री धुलजी पिता लालूजी निवासी घाटोल, जिला बांसवाड़ा को आदेश दिनांक 28.02.98/03.03.98 प्रदर्श ए-11 एवं आदेश दिनांक 7/8.3.2000 प्रदर्श ए-18 अनिवार्य सेवा निवृत्ति के दण्ड से दण्डित किया जाना उचित एवं वैध है।

अतः प्रार्थी कोई राहत पाने का अधिकारी नहीं है।

पंचाट आज दिनांक 22 दिसम्बर, 2016 को खुले न्यायालय में लिखाया जाकर सुनाया गया।

अरुण गुप्ता, न्यायाधीश

नई दिल्ली, 31 मई, 2017

का.आ. 1378.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 235/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31.05.2017 को प्राप्त हुआ था।

[सं. एल-12011/78/2014-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 31st May, 2017

S.O. 1378.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 235/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 31.05.2017.

[No. L-12011/78/2014-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Sri Muralidhar Pradhan, Presiding Officer

Dated : the 13th day of April, 2017

INDUSTRIAL DISPUTE No. 235/2014

Between :

The General Secretary,
All India Safai Amador Congress,
1382, Panjabgadda,
Ramavaram – 507118.
Kothagudem, Khammam District

...Petitioner Union

AND

1. The Chief General Manager,
State Bank of India,
Local Head Office, Koti,
Hyderabad.
2. The Asstt. General Manager (Admn.)
State Bank of India,
Regional Office,
Kakinada

...Respondents

Appearances :

For the Petitioner : Representative

For the Respondent : M/s. B.G. Ravindra Reddy & Y. Ranjith Reddy, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-12011/78/2014-IR(B-I) dated 21.11.2014 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of State Bank of India and their workman. The reference is

SCHEDULE

“Whether the action of the management of State Bank of India, Eleswaram branch of East Godavari District, Andhra Pradesh in terminating the service of Sri M. Nagaraju, Part/Full time Safai Karmachari/Scavenger is fair, proper and justified? If not, to what relief the workman is entitled to?”

The reference is numbered in this Tribunal as I.D. No. 235/2014 and notices were issued to the parties concerned.

2. The case is posted for filing of claim statement by the Petitioner union.
3. Petitioner is present, but has not filed the claim statement and submitted not to file the claim statement. There is no representation on behalf of the Respondent. Non-filing of claim statement clearly goes to show that perhaps the dispute between the parties have already settled and the claimant has no dispute to raise. The case is disposed of accordingly. Hence, no dispute Award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P Phani Gowri, Personal Assistant and corrected by me on this the 13th day of April, 2017.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 31 मई, 2017

का.आ. 1379.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 200/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31.05.2017 को प्राप्त हुआ था।

[सं. एल-12011/51/2014-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 31st May, 2017

S.O. 1379.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 200/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 31.05.2017.

[No. L-12011/51/2014-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD****Present :** Sri Muralidhar Pradhan, Presiding OfficerDated : the 17th day of March, 2017**INDUSTRIAL DISPUTE No. 200/2014****Between :**

The General Secretary,
All India Safai Amador Congress,
1382, Panjabgadda,
Ramavaram – 507118.
Kothagudem, Khammam District

...Petitioner Union

AND

1. The Chief General Manager,
State Bank of India,
Local Head Office, Koti,
Hyderabad.
2. The Asstt. General Manager (Admn.)
State Bank of India,
Regional Office,
Kakinada

...Respondents

Appearances :

For the Petitioner : Representative
For the Respondent : M/s. B.G. Ravindra Reddy & Y. Ranjith Reddy, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-12011/51/2014-IR(B-I) dated 29.9.2014 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of State Bank of India and their workman. The reference is

SCHEDULE

“Whether the action of the management of State Bank of India, Annavaram Branch, of East Godavari District, Andhra Pradesh in terminating the service of Smt. Y. Varalakshmi, Part time Safai Karmachari/Scavenger is fair, proper and justified? If not, to what relief the workman is entitled to?”

The reference is numbered in this Tribunal as I.D. No. 200/2014 and notices were issued to the parties concerned.

2. The case is posted for filing of claim statement by the Petitioner union.
3. Petitioner is present, but has not filed the claim statement and submitted not to file the claim statement. There is no representation on behalf of the Respondent. Non-filing of claim statement clearly goes to show that perhaps the dispute between the parties have already settled and the claimant has no dispute to raise. The case is disposed of accordingly. Hence, no dispute Award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P Phani Gowri, Personal Assistant and corrected by me on this the 17th day of March, 2017.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 31 मई, 2017

का.आ. 1380.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 204/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31.05.2017 को प्राप्त हुआ था।

[सं. एल-12011/55/2014-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 31st May, 2017

S.O. 1380.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 204/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 31.05.2017.

[No. L-12011/55/2014-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Sri Muralidhar Pradhan, Presiding Officer

Dated : the 17th day of March, 2017

INDUSTRIAL DISPUTE No. 204/2014

Between :

The General Secretary,
All India Safai Amador Congress,
1382, Panjabgadda,
Ramavaram – 507118.
Kothagudem, Khammam District

...Petitioner Union

AND

1. The Chief General Manager,
State Bank of India,
Local Head Office, Koti,
Hyderabad.
2. The Asst. General Manager (Admn.)
State Bank of India,
Regional Office,
Kakinada

...Respondents

Appearances :

For the Petitioner : Representative
 For the Respondent : M/s. B. G. Ravindra Reddy & Y. Ranjith Reddy, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L- 12011/55/2014-IR(B-I) dated 29.9.2014 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of State Bank of India and their workman. The reference is :

SCHEDULE

“Whether the action of the management of State Bank of India, Peddapuram Hospital Area Branch of East Godavari District, Andhra Pradesh in terminating the service of Smt. V. Parvathi, Part time Safai Karmachari/Scavenger is fair, proper and justified? If not, to what relief the workman is entitled to?”

The reference is numbered in this Tribunal as I.D. No. 204/2014 and notices were issued to the parties concerned.

2. The case is posted for filing of claim statement by the Petitioner union.
3. Petitioner is present, but has not filed the claim statement and submitted not to file the claim statement. There is no representation on behalf of the Respondent. Non-filing of claim statement clearly goes to show that perhaps the dispute between the parties have already settled and the claimant has no dispute to raise. The case is disposed of accordingly. Hence, no dispute Award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P Phani Gowri, Personal Assistant and corrected by me on this the 17th day of March, 2017.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 31 मई, 2017

का.आ. 1381.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन क संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 209/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31.05.2017 को प्राप्त हुआ था।

[सं. एल-12011/58/2014-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 31st May, 2017

S.O. 1381.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 209/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 31.05.2017.

[No. L-12011/58/2014-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
HYDERABAD****Present :** Sri Muralidhar Pradhan, Presiding OfficerDated : the 15th day of March, 2017**INDUSTRIAL DISPUTE No. 209/2014****Between :**

The General Secretary,
All India Safai Amador Congress,
1382, Panjabgadda,
Ramavaram – 507118.
Kothagudem, Khammam District

...Petitioner Union

AND

1. The Chief General Manager,
State Bank of India,
Local Head Office, Koti,
Hyderabad.
2. The Asst. General Manager (Admn.)
State Bank of India,
Regional Office,
Kakinada

...Respondents

Appearances :

For the Petitioner : Representative

For the Respondent : M/s. B. G. Ravindra Reddy & Y. Ranjith Reddy, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L- 12011/58/2014-IR(B-I) dated 29.9.2014 referred the following dispute under Section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of State Bank of India and their workman. The reference is :

SCHEDULE

“Whether the action of the management of State Bank of India, Papermill branch of East Godavari District, Andhra Pradesh in terminating the service of Smt. V. Kumari, Part time Safai Karmachari/Scavenger is fair, proper and justified? If not, to what relief the workman is entitled to?”

The reference is numbered in this Tribunal as I.D. No. 209/2014 and notices were issued to the parties concerned.

2. The case is posted for filing of claim statement by the Petitioner union.
3. Petitioner is present, but has not filed the claim statement and submitted not to file the claim statement. There is no representation on behalf of the Respondent. Non-filing of claim statement clearly goes to show that perhaps the dispute between the parties have already settled and the claimant has no dispute to raise. The case is disposed of accordingly. Hence, no dispute Award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P Phani Gowri, Personal Assistant and corrected by me on this the 15th day of March, 2017.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 31 मई, 2017

का.आ. 1382.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 211/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31.05.2017 को प्राप्त हुआ था।

[सं. एल-12011/56/2014-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 31st May, 2017

S.O. 1382.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 211/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 31.05.2017.

[No. L-12011/56/2014-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD****Present :** Sri Muralidhar Pradhan, Presiding OfficerDated : the 20th day of March, 2017**INDUSTRIAL DISPUTE No. 211/2014****Between :**

The General Secretary,
All India Safai Amador Congress,
1382, Panjabgadda,
Ramavaram – 507118.
Kothagudem, Khammam District

...Petitioner Union

AND

1. The Chief General Manager,
State Bank of India,
Local Head Office, Koti,
Hyderabad
2. The Asst. General Manager (Admn.)
State Bank of India,
Regional Office,
Kakinada

...Respondents

Appearances :

For the Petitioner : Representative

For the Respondent : M/s. B.G. Ravindra Reddy & Y. Ranjith Reddy, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-12011/56/2014-IR(B-I) dated 29.9.2014 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of State Bank of India and their workman. The reference is :

SCHEDULE

“Whether the action of the management of State Bank of India, Thatitota branch of East Godavari District, Andhra Pradesh in terminating the service of Sri Bangaru Bala Subramanyam, Full time Safai Karmachari/Scavenger is fair, proper and justified? If not, to what relief the workman is entitled to?”

The reference is numbered in this Tribunal as I.D. No. 211/2014 and notices were issued to the parties concerned.

2. The case is posted for filing of claim statement by the Petitioner union.

3. Petitioner is present, but has not filed the claim statement and submitted not to file the claim statement. There is no representation on behalf of the Respondent. Non-filing of claim statement clearly goes to show that perhaps the dispute between the parties have already settled and the claimant has no dispute to raise. The case is disposed of accordingly. Hence, no dispute Award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P Phani Gowri, Personal Assistant and corrected by me on this the 20th day of March, 2017.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 31 मई, 2017

का.आ. 1383.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 213/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31.05.2017 को प्राप्त हुआ था।

[सं. एल-12011/60/2014-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 31st May, 2017

S.O. 1383.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 213/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 31.05.2017.

[No. L-12011/60/2014-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
HYDERABAD****Present :** Sri Muralidhar Pradhan, Presiding OfficerDated : the 20th day of March, 2017**INDUSTRIAL DISPUTE No. 213/2014****Between :**

The General Secretary,
All India Safai Amador Congress,
1382, Panjabgadda,
Ramavaram – 507118.
Kothagudem, Khammam District

...Petitioner Union

AND

1. The Chief General Manager,
State Bank of India,
Local Head Office, Koti,
Hyderabad
2. The Asst. General Manager (Admn.)
State Bank of India,
Regional Office,
Kakinada

...Respondents

Appearances :

For the Petitioner : Representative

For the Respondent : M/s. B.G. Ravindra Reddy & Y. Ranjith Reddy, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-12011/60/2014-IR(B-I) dated 29.9.2014 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of State Bank of India and their workman. The reference is

SCHEDULE

“Whether the action of the management of State Bank of India, Danavaipet branch of East Godavari District, Andhra Pradesh in terminating the service of Smt. N. Satyathi, Full time Safai Karmachari/Scavenger is fair, proper and justified? If not, to what relief the workman is entitled to?”

The reference is numbered in this Tribunal as I.D. No. 213/2014 and notices were issued to the parties concerned.

2. The case is posted for filing of claim statement by the Petitioner union.
3. Petitioner is present, but has not filed the claim statement and submitted not to file the claim statement. There is no representation on behalf of the Respondent. Non-filing of claim statement clearly goes to show that perhaps the dispute between the parties have already settled and the claimant has no dispute to raise. The case is disposed of accordingly. Hence, no dispute Award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P Phani Gowri, Personal Assistant and corrected by me on this the 20th day of March, 2017.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 31 मई, 2017

का.आ. 1384.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक क प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 236/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31.05.2017 को प्राप्त हुआ था।

[सं. एल-12011/77/2014-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 31st May, 2017

S.O. 1384.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 236/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 31.05.2017.

[No. L-12011/77/2014-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD****Present :** Sri Muralidhar Pradhan, Presiding OfficerDated : the 13th day of April, 2017**INDUSTRIAL DISPUTE No. 236/2014****Between :**

The General Secretary,
All India Safai Amador Congress,
1382, Panjabgadda,
Ramavaram – 507118.
Kothagudem, Khammam District

...Petitioner Union

AND

1. The Chief General Manager,
State Bank of India,
Local Head Office, Koti,
Hyderabad
2. The Asst. General Manager (Admn.)
State Bank of India,
Regional Office,
Kakinada

...Respondents

Appearances :

For the Petitioner : Representative
 For the Respondent : M/s. B.G. Ravindra Reddy & Y. Ranjith Reddy, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-12011/77/2014-IR(B-I) dated 21.11.2014 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of State Bank of India and their workman. The reference is

SCHEDULE

“Whether the action of the management of State Bank of India, Gollapalem Ramachandrapuram branch of East Godavari District, Andhra Pradesh in terminating the service of Smt. M. Nagamma, Part/Full time Safai Karmachari/Scavenger is fair, proper and justified? If not, to what relief the workman is entitled to?”

The reference is numbered in this Tribunal as I.D. No. 236/2014 and notices were issued to the parties concerned.

2. The case is posted for filing of claim statement by the Petitioner union.
3. Petitioner is present, but has not filed the claim statement and submitted not to file the claim statement. There is no representation on behalf of the Respondent. Non-filing of claim statement clearly goes to show that perhaps the dispute between the parties have already settled and the claimant has no dispute to raise. The case is disposed of accordingly. Hence, no dispute Award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P Phani Gowri, Personal Assistant and corrected by me on this the 13th day of April, 2017.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 31 मई, 2017

का.आ. 1385.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 233/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31.05.2017 को प्राप्त हुआ था।

[सं. एल-12011/76/2014-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 31st May, 2017

S.O. 1385.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 233/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 31.05.2017.

[No. L-12011/76/2014-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
HYDERABAD****Present :** Sri Muralidhar Pradhan, Presiding OfficerDated : the 20th day of March, 2017**INDUSTRIAL DISPUTE No. 233/2014****Between :**

The General Secretary,
All India Safai Amador Congress,
1382, Panjabgadda,
Ramavaram – 507118.
Kothagudem, Khammam District

...Petitioner Union

AND

1. The Chief General Manager,
State Bank of India,
Local Head Office, Koti,
Hyderabad
2. The Asst. General Manager (Admn.)
State Bank of India,
Regional Office,
Kakinada

...Respondents

Appearances :

For the Petitioner : Representative

For the Respondent : M/s. B.G. Ravindra Reddy & Y. Ranjith Reddy, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-12011/76/2014-IR(B-I) dated 21.11.2014 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of State Bank of India and their workman. The reference is

SCHEDULE

“Whether the action of the management of State Bank of India, Pedalapaka branch of East Godavari District, Andhra Pradesh in terminating the service of Smt. K. Varalu, Part/Full time Safai Karmachari/Scavenger is fair, proper and justified? If not, to what relief the workman is entitled to?”

The reference is numbered in this Tribunal as I.D. No. 233/2014 and notices were issued to the parties concerned.

2. The case is posted for filing of claim statement by the Petitioner union.
3. Petitioner is present, but has not filed the claim statement and submitted not to file the claim statement. There is no representation on behalf of the Respondent. Non-filing of claim statement clearly goes to show that perhaps the dispute between the parties have already settled and the claimant has no dispute to raise. The case is disposed of accordingly. Hence, no dispute Award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P Phani Gowri, Personal Assistant and corrected by me on this the 20th day of March, 2017.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 31 मई, 2017

का.आ. 1386.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 19/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31.05.2017 को प्राप्त हुआ था।

[सं. एल-12011/05/2015-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 31st May, 2017

S.O. 1386.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 19/2015) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 31.05.2017.

[No. L-12011/05/2015-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD****Present :** Sri Muralidhar Pradhan, Presiding OfficerDated : the 16th day of March, 2017**INDUSTRIAL DISPUTE No. 19/2015****Between :**

The General Secretary,
All India Safai Amador Congress,
1382, Panjabgadda,
Ramavaram – 507118.
Kothagudem, Khammam District

...Petitioner Union

AND

1. The Asst. General Manager (Admn.)
State Bank of India,
Regional Office,
Kakinada
2. The Chief General Manager,
State Bank of India,
Local Head Office, Koti,
Hyderabad

...Respondents

Appearances :

For the Petitioner : Representative
 For the Respondent : M/s. B.G. Ravindra Reddy & Y. Ranjith Reddy, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L- 12011/05/2015-IR(B-I) dated 12.2.2015 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of State Bank of India and their workman. The reference is

SCHEDULE

“Whether the action of the management of State Bank of India, Nidadavolu Branch, of West Godavari District, Andhra Pradesh in terminating the service of Sri K. Hanumantha Rao, Part time Safai Karmachari/Scavenger is fair, proper and justified? If not to what relief the workman is entitled to?”

The reference is numbered in this Tribunal as I.D. No. 19/2015 and notices were issued to the parties concerned.

2. The case is posted for filing of claim statement by the Petitioner union.
3. Petitioner is present, but has not filed the claim statement and submitted not to file the claim statement. There is no representation on behalf of the Respondent. Non-filing of claim statement clearly goes to show that perhaps the dispute between the parties have already settled and the claimant has no dispute to raise. The case is disposed of accordingly. Hence, no dispute Award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P Phani Gowri, Personal Assistant and corrected by me on this the 16th day of March, 2017.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 31 मई, 2017

का.आ. 1387.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 18/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31.05.2017 को प्राप्त हुआ था।

[सं. एल-12011/04/2015-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 31st May, 2017

S.O. 1387.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 18/2015) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 31.05.2017.

[No. L-12011/04/2015-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
HYDERABAD

Present : Sri Muralidhar Pradhan, Presiding Officer

Dated : the 16th day of March, 2017

INDUSTRIAL DISPUTE No. 18/2015

Between :

The General Secretary,
 All India Safai Amador Congress,
 1382, Panjabgadda,
 Ramavaram – 507118.
 Kothagudem, Khammam District

...Petitioner Union

AND

1. The Asst. General Manager (Admn.)
 State Bank of India,
 Regional Office,
 Kakinada
2. The Chief General Manager,
 State Bank of India,
 Local Head Office, Koti,
 Hyderabad

...Respondents

Appearances :

For the Petitioner : Representative

For the Respondent : M/s. B.G. Ravindra Reddy & Y. Ranjith Reddy, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L- 12011/04/2015-IR(B-I) dated 12.2.2015 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of State Bank of India and their workman. The reference is

SCHEDULE

“Whether the action of the management of State Bank of India, Nidadavolu Branch, of West Godavari District, Andhra Pradesh in terminating the service of Smt. B. Tirumala, Part time Safai Karmachari/ Scavenger is fair, proper and justified? If not to what relief the workman is entitled to?”

The reference is numbered in this Tribunal as I.D. No. 18/2015 and notices were issued to the parties concerned.

2. The case is posted for filing of claim statement by the Petitioner union.
3. Petitioner is present, but has not filed the claim statement and submitted not to file the claim statement. There is no representation on behalf of the Respondent. Non-filing of claim statement clearly goes to show that perhaps the dispute between the parties have already settled and the claimant has no dispute to raise. The case is disposed of accordingly. Hence, no dispute Award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 16th day of March, 2017.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 31 मई, 2017

का.आ. 1388.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार फडरल बैंक लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. 1, दिल्ली के पंचाट (संदर्भ संख्या 147/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31.05.2017 को प्राप्त हुआ था।

[सं. एल-12012/214/2003-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 31st May, 2017

S.O. 1388.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 147/2003) of the Central Government Industrial Tribunal-cum-Labour Court No. I, Delhi as shown in the Annexure, in the industrial dispute between the management of Federal Bank Ltd. and their workmen, received by the Central Government on 31.05.2017.

[No. L-12012/214/2003-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. 1, KARKARDOOMA COURT COMPLEX, DELHI

ID No. 147/2003

Shri Vikas Gupta,
House No. 833/5, Street No. 5-A,
Patel Nagar,
Gurgaon 122 001

...Workman

Versus

The Regional Manager,
Federal Bank Ltd.,
Regional Office,
59/4337 -4339, Padam Singh Road,
Karol Bagh, New Delhi 110 005

...Management

AWARD

A reference was received in the present case from the Ministry of Labour vide letter No.L-12012/214/2003-IR(B-I) dated 14.11.2003 for adjudication of an industrial dispute, terms of which are as under:

“Whether the action of the management of Federal Bank in dismissing Shri Vikas Gupta, Clerk from 10.08.2002 is just, fair and legal? If not, to what relief and from which date the workman is entitled for?”

2. Both parties were put to notice and Shri Vikas Gupta, the claimant herein, filed his statement of claim wherein he has alleged that he was in permanent employment of Federal Bank, the management, as clerk in Civil Lines, Gurgaon branch of the management under the administrative control of Regional Office:New Delhi. He had been discharging his duties sincerely and honestly. Claimant, in his capacity as an active member of the Trade Union of the employees of Federal Bank Employees Union raised voice against the wrong actions of the management and requested the management not to harass the staff by their actions by asking them to sit late without paying overtime allowance and also getting work from the employees against the prescribed norms. This legitimate trade union activity was not to the liking of the management who started victimization of the claimant through engineering of false complaints against the claimant. In order to victimize the claimant, complaints were fabricated which were made subject-matter of charge sheets dated 13.10.2001 and 31.10.2001 which was issued to the claimant. Claimant was placed under suspension on the basis of the above two charge sheets. Claimant has denied all the material charges made in the charge sheet and it was alleged that the charges were framed against the claimant in violation of the provisions of the bipartite settlement, which are standing orders in respect of the staff of banks.

3. Claimant also alleged that the enquiry conducted by the Enquiry Officer was a farce and no opportunity was afforded to the claimant to defend himself. It was conducted in a biased and prejudicial manner against the claimant in a hurried manner without deciding the issues raised by the claimant. The Enquiry Officer neither allowed the claimant

to cross-examine the material witnesses produced by the management nor was he allowed to produce his witnesses. All the proceedings were conducted by the Enquiry Officer at the behest of the Presenting Officer representing the management. Enquiry Officer has submitted his report and the disciplinary authority failed to appreciate the submissions raised by the claimant vide his submissions dated 07.06.2002 upon the Enquiry Report. Representation made by the claimant was rejected by the disciplinary authority and penalty vide order dated 10.08.2002 was confirmed, as a result of which services of the claimant was dismissed. Claimant has prayed that the enquiry be set aside.

4. Management has filed reply to the statement of claim wherein certain preliminary objections have been taken by the management. It is alleged that the claimant behaved in an indisciplined manner with members of staff and customers and was thus guilty of dereliction of duties, inasmuch as he was found loitering in the branch when customers were waiting at the counter. He disobeyed lawful instructions of his superiors. Keeping in view the seriousness of misconduct of the claimant, he was served with charge sheets dated 13.10.2001 and 31.10.2001. Enquiry was constituted in respect of the above charge sheets and report was submitted by the Enquiry Officer on 08.04.2002. Enquiry Officer has held the claimant to be guilty of misconduct and the disciplinary authority, after going through the report afforded opportunity of personal hearing to the claimant regarding the punishment to be imposed upon him. Thereafter, the Disciplinary Authority, vide order dated 10.08.2002, awarded punishment of 'dismissal from service without notice' M-7. On merits, factum of engagement of the claimant with the management has been admitted and the remaining allegations made in the statement of claim have been specifically denied by the management.

5. Claimant filed rejoinder to the statement of defence filed by the management, wherein the claimant reasserted the stand taken in the statement of claim.

6. Against this factual background, my learned predecessor vide order dated 23.07.2007, based on the pleadings of the parties, framed the following issues:

- (i) Whether the enquiry conducted by the respondent management is proper and fair? If not, its effect?
- (ii) As per terms of reference.

7. Issue No.(i) was treated preliminary issue. Both parties were afforded opportunity to prove/disprove allegations of misconduct.

8. Shri Vikas Gupta examined himself as WW1 and his affidavit is Ex.WW1/A. He also relied on documents Ex.WW1/1 to Ex.WW1/5. Management examined Shri Tomy John as MW1 and Shri Baby George as MW2 and their affidavits are Ex.MW1/A and Ex.MW2/A respectively. Both the witnesses of the management relied on documents Ex.MW1/1 to Ex. MW1/61.

9. My learned predecessor, after considering the evidence on record, concluded that the enquiry has not been conducted in a fair manner resulting in violation of principles of natural justice. As such, vide order dated 26.04.2012 enquiry was held to be bad in law and in violation of principles of natural justice. Resultantly, this issue was decided in favour of the claimant and against the management. In view of the stand taken by the management in the written statement, this Tribunal granted permission to the management to prove the charges of misconduct against the claimant by adducing evidence on merits.

10. Management, in order to prove the charges, examined Shri Rajan S, Assistant General Manager as MW3. The witness primarily relied upon charge sheets Ex.WW1/1 and Ex.WW1/2. He has also proved reply filed by the claimant to the above charge sheet as well as letters Ex.MW3/1 to Ex.MW3/7. Shri P.V. Sebastian was examined as MW4 whose affidavit is Ex.MW4/A and he also relied on documents Ex.MW4/1 to Ex.MW4/17. Claimant, in order to rebut the case of charges of misconduct, examined himself as WW1 and affidavit is Ex.WW1/B.

11. Before I proceed to consider the comparative merits of the submissions adduced on behalf of either of the parties, it is necessary to refer to the charge sheets WW1/1 and WW1/2 served on the claimant:

Charge Sheet dated 13.10.2001

- (I) (1) It is reported that Shri Vikas Gupta, P.F. No. 7335, Br. Gurgaon, had entered into verbal altercation with the Manager (Admn) and Senior Manager and exhibited boisterous and unruly behavior to them when an office order was given to Ms. Rachna Chandna, Clerk of Br. Gurgaon, on 04.09.2001. He had also threatened the Senior Manager of the branch when the Senior Manager tried to pacify him.
- (a) On 04.09.2001 Shri Sebastian P.V. Manager(Admn) of Br. Gurgaon, requested Ms. Rachna Chandna, Clerk of the branch, to attend the balancing of IBP, FBP, CL(Public), CLT(S)-PMRY as on 31.08.2001, keeping aside her dispatch work, as the balancing was pending.

Instead of attending the balancing works Ms. Rachna Chandna started arguing with Shri Sebastian PV in an indisciplined manner questioning why she was requested to do all the works of the branch always. Though Shri Sebastian PV tried to convince by showing the monthly balancing schedule file in which there was not even a single schedule extracted by her during the last two months, even though the monthly balancing of IBP and FBP had been allotted to her as per the general office order. Ms. Rachna Chandna informed him that she would do the balancing of CL(Public), CLT(S)-PMRY, IBP and FBP only if a written order was given to her. Therefore Shri Sebastian P V prepared an office order in writing in an inter office note and gave it to her for signing/acknowledging. Instead of signing/acknowledging the office order Ms. Rachna Chandna started making unnecessary arguments and tried to waste time. When Shri Sebastian P V insisted Ms. Rachna chandna that she should either acknowledge or reject the office order, she rushed to Shri Vikas Gupta, who had just come to the branch after local return clearing and Shri Vikas Gupta, even without knowing the facts or reading the office order, interfered in the matter and shouted loudly to the Manager (Admn) in an arrogant and uncultured manner. Ignoring the noisy utterances of Shri Vikas Gupta, Shri Sebastian P V asked Shri Vikas Gupta to attend his next important work of preparing the local outward clearing for the next morning. Shri Vikas Gupta, without obeying the instructions of Shri Sebastian P V, asked him “who will attend dispatch, if Rachna is allotted another work”. Though Shri Sebastian PV told him that he has taken care of everything in the office order, Shri Vikas Gupta, without caring to attend the works related to the next day’s outward clearing, wanted to see the wordings in the office order given to Ms. Rachna Chandna, When the office order was shown to Shri Vikas Gupta he questioned Shri Sebastian P V “How can you give office order to Rachna alone”. Thereafter Shri Vikas Gupta shouted to Shri Sebastian P V “I will not do my work without an office order”.

- (b) On hearing the arguments Senior Manager came out from his cabin and asked the reason for the unruly behavior of Shri Vikas Gupta and Ms. Rachna Chandna in the premises of the branch. After ascertaining the situation Senior Manager advised Ms. Rachna Chandna to accept the office order. But she did not obey the same. Shri Vikas Gupta also continued to argue with Senior Manager. When Senior Manager advised Shri Vikas Gupta not to interfere in the matter and ordered him to go to his seat, Shri Vikas Gupta shouted to the Senior Manager, “I am a union member, hence I can interfere. Manager is not so great”. He also added “I know what is a Manager. Manager does not have horns at least”. Shri Vikas Gupta also threatened the Senior Manager in Hindi “Paanch Bajie Ke baad neeche Aajaa, Dikhayega” and also added “I won’t allow you to complete three years in this branch”. Senior Manager again advised him to go to his seat and finish his works. But Shri Vikas Gupta insisted for an office order for his clearing work also and accordingly Shri Sebastian P V gave an office order to him and got acknowledgement of the office order from him.
- (2) (a) It is also reported that Shri Vikas Gupta was behaving in the branch in an indisciplined manner before other members of staff and customers and loitering inside the branch when the customers were waiting in the counters. Though Senior Manager as well as Shri Sebastian P.V. advised Shri Gupta several times to behave in a disciplined manner inside the office, he has not cared to obey the instructions. Some customers have also expressed their displeasure to the Senior Manager regarding the peculiar behavior of Shri Vikas Gupta during office hours.
- (b) It is further reported that Shri Vikas Gupta had taken drafts in favour of some business firms as follows to avoid payment of DD Commission by the firms.

Date	Amount	Favouring
12.07.2001	Rs.16,348/-	M/s. Shri Govind Textiles
19.06.2001	Rs. 9,360/-	M/s. Sri Ganapathi Textiles
12.06.2001	Rs. 11,737/-	M/s. Shree Mahasakti Textiles

- (3) The aforesaid acts/omissions on the part of Shri Vikas Gupta, if proved, would amount to the acts of misconducts of :
- Riotous or disorderly or indecent behavior on the premises of the Bank.
 - Wilful disobedience of any lawful and reasonable orders of the superior.
 - Doing any act prejudicial to the interest of the Bank.
- (II) (1) The acts/omissions alleged against Shri Vikas Gupta are very serious in nature. Hence, it is decided to hold an enquiry into the matter. Shri Tomy John, Manager (Admn), P & IR Department, Head Office, Aluva, is appointed as the Enquiry Officer and Shri Syriac Joseph, Manager (Admn), P & IR Department, Head Office, Aluva, shall be the Management Representative. Shri Vikas Gupta will hear regarding the date, venue and time of the enquiry from the Enquiry Officer in due course. Shri Vikas Gupta is required to submit his explanation in the matter, if any, within 10 days of receipt of this memorandum.
- (2) As the reported lapses/irregularities on the part of Shri Vikas Gupta are serious in nature, pending enquiry, Shri Vikas Gupta is placed under suspension with immediate effect. During the period of suspension he will be paid subsistence allowance as follows
- For the first 3 months 1/3 of the pay and allowances which the workman would have got but the suspension.
 - For the period of suspension thereafter one half of the pay and allowances which he would have got but for the suspension.
 - One year after the date of suspension, full pay and allowances, provided the enquiry is not delayed for reasons attributable to him or any representatives. He shall however not be entitled to any subsistence allowance if he accepts any employment during the period of suspension in any other establishment.
- (3) Shri Vikas Gupta is required to furnish his address in which communication meant for him can be sent. Shri Vikas Gupta shall not enter the premises of the branch during the period of suspension except for the purpose of operating his own account. Such banking operations will be allowed only in the Manager's cabin. He may also note that if it is found that he is misusing this facility in any manner, his account is liable to be closed and the balance sent to him by way of demand draft/money order/pay order.
- (III) Shri Vikas Gupta is also required to acknowledge receipt of this memorandum by affixing his signature and date on the duplicate hereof."

Charge Sheet dated October 31, 2001

- This has reference to the order No. 14/01 contained in memorandum PIR/M-5/PF-7335/AW-424/1555/2001 dated 13.10.2001 issued to Shri Vikas Gupta, P FNo. 7335, Clerk (under suspension), Br. Gurgaon.
- Pursuant to the above, it is reported that when the Assistant General Manager, Regional Office, New Delhi, visited Br. Gurgaon on 26.09.2001 and informed his decision to convene a meeting of members of staff of the branch, Shri Vikas Gupta behaved in a very defiant manner and also instigated other members of staff to boycott the meeting and as a result all of them left the branch disregarding the request of the Assistant General Manager to attend the meeting.
- It is further reported that Shri Vikas Gupta had introduced two persons to the branch for opening SB accounts, one as Mr. Prakash Badoria and the other as Mr. Sandeep Kumar Sharma respectively on 22.01.2001 under the introduction of Shri Vikas Gupta, that according to a certificate dated 22.01.2001 purported to have been issued by M/s Diksha Security and Detective Services (Regd), Mr. Prakash Badoria and Mr Sandeep Kumar Sharma were employees of M/s Diksha Security and Detective Services (Regd), that towards the middle of branch and informed that an account had been opened in his name without his knowledge and that Shri Vikas Gupta had colluded in opening the account, that he was not any more an employee of M/s Diksha Security and Detective services (Regd), that sometimes back they were partners in business, that now they have fallen apart and that the old associate was trying to cheat him or his money, that he had learnt about the attempt to embezzle the money when he had gone to PF Office to apply for release of his PF amount.

- (b) It has been gathered that the accounts were opened by impersonation with the aim of encashing the cheque issued by PF Office towards the amount lying in the name of Mr. Prakash Badoria and that Shri Vikas Gupta knew the actual Prakash Badoria and Sandeep Kumar Sharma as well as the fictitious persons who have opened the accounts. The accounts were later on closed by the parties themselves.
- (c) Shri Vikas Gupta had certified in the account opening forms to the effect that the applicants were known to him and confirmed the identity, occupation and addresses of the applicants. By introducing the aforesaid two SB accounts opened through impersonation, Shri Vikas Gupta had helped the parties to pave way to perpetrate fraud. However, the fraud/forgery could be detected in the initial stage itself due to the timely intervention of the officials of the branch. The acts/omissions on the part of Shri Vikas Gupta are in violation of the instructions contained in clause 5.3.9 of the Memorandum of instructions.
- (4) When an explanation in the matter was called for from Shri Vikas Gupta he had submitted his reply vide letter dated 29.05.2001 admitted that he had introduced the above two SF accounts. But the explanation submitted by Shri Vikas Gupta vide his letter dated 29.05.2001 is found not satisfactory.
- (5) The acts/omissions on the part of Shri Vikas Gupta stated in paras (2) and (3) a to c above, if proved, would amount to misconduct of
 - (a) Willful insubordination and
 - (b) Doing any act prejudicial to the interest of the bank respectively

II Since the acts/omissions on the part of Shri Vikas Gupta are very serious in nature, it is decided to hold an enquiry into the allegations levelled against him vide this memorandum and this will also form part of the enquiry already ordered against Shri Vikas Gupta vide order dated 13.10.2001. Shri Vikas Gupta is required to submit his explanation in the matter, if any, within 5 days of receipt of this memorandum.'

12. It is further clear from the reply filed by the claimant to the charge sheet, that he has not admitted the allegations of misbehavior mentioned in the above charge sheet and highlighted that he was a victim of bias and prejudice and superior officers of the bank were always nursing a grudge against him. It is further clear from the statement of claim that the allegations leveled in the present case, though serious in nature, yet the same is required to be proved by satisfactory evidence by the management so as to hold the delinquent workman to be guilty of the same though the standard of proof in departmental enquiry is not as high as in criminal cases. However, it is always expected from the management to bring such evidence on record so as to satisfy the conscience of the court so as to hold the delinquent employee to be guilty of the charges.

13. In the present case, after findings were rendered by this Tribunal holding the domestic enquiry to be unfair and against principles of natural justice vide order dated 26.04.2012, management has examined only two witnesses Shri Rajan S and Shri P.V. Sebastian. It is clear from an overall examination of the contents of the affidavit Ex.MW3/A that the same is on the same lines as the stand taken by the management in its reply/statement of defence. As per statement of this witness, that on 04.09.2001, incident took place within his view as he was present in the branch. He has not issued any suspension order to the claimant after the incident. He has clarified that no subordinate has made any complaint relating to the incident of 04.09.2001. He had asked Shri Sebastian on 05.09.2001 pertaining to the incident of 04.09.2001.. Thereafter, office order was issued with his concurrence, relating to allocation of duties for a period of six months and the revised office order is Ex.MW4/W1. He further clarified that commotion was raised by Shri Vikas Gupta and Ms. Rachna Chandna. It is important to mention here that during the course of arguments it was fairly conceded by both the parties that there was lot of tension between the bank union and the management.

14. Management had also examined Shri P.V. Sebastian MW4, whose affidavit is Ex.MW4/A. He has also mentioned about the incident of 04.09.2001 as well as other material facts in his affidavit. In his cross examination, he has clarified that he was working as Manager: Administration. It is further clear that in fact incident of 04.09.2001 had not taken in his presence and tone and tenor of the affidavit is clear that Shri Vikas Gupta as well as Ms. Rachna Chandna ignored the oral instructions of the Bank and regular office order was issued regarding allocation of duties of these workmen. His cross examination is primarily confined to the misconduct of Ms. Chandna and there is hardly anything in the statement of this witness, specifically regarding misconduct of the claimant, Shri Vikas Gupta. Admittedly, no employee has said anything regarding misconduct or misbehavior of any of the two employees of the management. It has also come in the cross examination of this witness that on 26.09.2001, the Assistant General Manager has called a meeting of the staff of the branch but the said meeting was not attended by any of the workmen staff, including the claimant herein. This also clearly shows that there was a lot of resentment and tension against the style of functioning of the management. He has further made a vital submission that no complaint was made against the claimant regarding him instigating the workman for not attending the meeting. He further admitted that prior to

issuance of charge sheet dated 31.10.2001, no action was initiated against the claimant in respect of transactions mentioned in para 12 to 17 of his affidavit nor any legal action was initiated against the account holders in respect of fraudulent accounts as the bank does not want to harass the customers.

15. Rather complaint filed by Sebastian is Ex.MW4/4 and an overall review of the same would suggest that it is an act of afterthought as no action was taken by MW4 immediately after the incident of 04.09.2001. In fact, after giving serious thought, he has filed complaint on 06.09.2001. There is no explanation furnished by him as to why he took the incident so casually so as to not report the matter to the Senior Manager of Federal Bank. As discussed above, there is no independent witness of misbehavior of the claimant with Ms.Rachna Chandna. Moreover, most of the allegations in the above complaint pertain to Ms.Rachna Chandna.

16. In the present case, admittedly management has failed to prove independent witness regarding misbehavior or misconduct of the claimant herein in respect of the incident mentioned in the charge sheet. Rather, evidence has come on record that the work in the branch was going on smoothly prior to the posting of the above two witnesses and unrest had started only after the presence of these two officials in the branch.

17. There is no evidence worth the name on record to suggest that claimant herein has fabricated any account. Rather, Ex.WW1/7 proves the fact that the accounts in question were neither forged nor the claimant has played any role of or any kind of forgery. Withdrawal of the complaints by the complainants and the total silence on the part of the management over the fate of the cheques issued by the PF authority in favour of the alleged fake accountholder clearly shows that allegations in this behalf was false and was only made to victimize the claimant. Management failed to produce any aggrieved victim on account of this. Signatures of the accountholder on the AOF as well as application form for closure of the accounts are similar and this also proves that the accounts were not fictitious and in fact they were genuine. There is hardly any doubt that opening of fictitious bank accounts is a serious matter and is also a grave offence under the law as it is a case of both forgery as well as cheating. Evidence regarding forgery or cheating should be cogent and clear so as to hold a bank employee to be guilty of the same. Mere vague and general allegations in this regard are not sufficient. Perusal of Ex.MW4/5 to Ex.MW4/7 also supports the contention of the claimant that the accounts were opened with relevant documents, such as identity cards, etc. There is nothing on record to show that accounts were in the name of fictitious/imaginary persons and benefit of such accounts was taken by the claimant herein.

18. This court cannot ignore the fact that Ex.WW1/7 shows that he has wrongly filed the complaint and he has received the cheque directly. If it is so, there is no question of cheating or any role played by the claimant herein in respect of the above cheque. Ex.MW4/7 is the account closing application which has been filed by the actual/same person who has opened the account. Therefore, there is no question of any role played by the claimant in either opening or closing of the above account. It is clear from the above evidence that management has failed to prove charges of misconduct mentioned in charge sheet WW1/1 and WW1/2.

19. As a sequel to my above discussion, it is held that action of the management in dismissing the workman herein, is held to be neither fair, legal nor justified. Hence, the management is, hereby, directed to reinstate Shri Vikas Gupta, claimant herein, with continuity and full back wages. An award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : May 22, 2017

A. C. DOGRA, Presiding Officer

नई दिल्ली, 31 मई, 2017

का.आ. 1389.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ इंदोर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. 1, दिल्ली के पंचाट (संदर्भ संख्या 13/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31.05.2017 को प्राप्त हुआ था।

[सं. एल-12012/57/2010-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 31st May, 2017

S.O. 1389.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 13/2011) of the Central Government Industrial Tribunal-cum-

Labour Court No. I, Delhi as shown in the Annexure, in the industrial dispute between the management of State Bank of Indore and their workmen, received by the Central Government on 31.05.2017.

[No. L-12012/57/2010-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. 1, KARKARDOOMA COURT COMPLEX, DELHI

ID No. 13/2011

Shri Vinod Kumar S/o late Shri Chhotey Lal, through
General Secretary,
Municipal Employees Union,
Agarwal Bhawan, G.T. Road, Tis Hazari,
Delhi – 110 054

...Workman

Versus

1. The Chief Manager,
State Bank of Indore, M-46,
Connaught Circus,
New Delhi
2. The General Manager (O),
State Bank of Indore,
5, Y.N. Road,
Indore

...Managements

AWARD

A reference was received from Ministry of Labour and Employment vide Order No.L-12012/57/2010-IR(B-I) dated 14.01.2011 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(in short the Act) for adjudication of an industrial dispute, terms of which are as under:

Whether the action of the management of State Bank of Indore in terminating the services of Shri Vinod Kumar, Casual/Temporary worker with effect from 08.07.2009 is legal and justified? To what relief the workman is entitled to?

2. Both the parties were put to notice and claimant, Shri Vinod Kumar filed statement of claim, wherein it is alleged that he joined employment of the management with effect from 01.11.1997 as peon. He has been discharging his duties to the entire satisfaction of his superiors and has uninterrupted and unblemished record of service. He was being paid lump-sum amount of Rs.5000.00 per month. Management was not regularizing services of the claimant, as such, he served demand notice dated 26.09.2009 through his union. However, no reply to the said notice was given by the management. Thereafter, claimant raised a demand by filing statement of claim before the Assistant Labour Commissioner (Central), Government of India.

3. It is the case of the claimant that after receipt of demand notice on 26.09.2009, management has terminated his services by way of victimization. Action of the management has been alleged to be totally illegal, unjust and malafide and is also a means of unfair labour practice under the Act. The claimant was serving continuously and has no break in service. Finally, prayer has been made by the claimant for holding action of the management to be illegal and to reinstate him in service with full back wages and all consequential benefits.

4. Claim was resisted by the management, who filed written statement thereof, taking preliminary objections, inter alia of claimant being engaged as casual labour on doing day-to-day basis and his services was taken only as an when the permanent peon was on leave. He was doing petty work as well as miscellaneous work. Claimant has never completed 240 days in a calendar year and the reference made by the appropriate Government not being legally maintainable. On merits, management has denied the other material averments. However, factum of engagement of the claimant has been duly admitted by the management.

5. Against this factual background, my learned predecessor vide order dated 16.06.2011 has observed that from the pleadings of the parties, in the opinion of the Tribunal, no issue other than the one already referred for adjudication by the appropriate Government is made out between the parties.

6. Claimant, in support of his case, examined himself as WW1 and tendered in evidence his affidavit Ex.WW1/A and documents Ex.WW1/1 to Ex.WW1/71. Management, in order to rebut the case of the claimant, examined Shri Jorawar Singh Mohi, Chief Manager, Shri Sunil Kumar, Peon(Messenger) and Shri Pradeep Kori, Chief Manager as MW1, MW1 and MW3, whose affidavits at Ex.MW1/A, Ex.MW2/A and Ex.MW3/A respectively. No documents were relied by the management witnesses.

7. It is clear from pleadings of the parties as well as evidence adduced by both the parties that claimant was engaged by the management to do office work/miscellaneous work/petty work which was being entrusted to him by the officials of the management. In this regard, it is appropriate to refer to the affidavit of Shri Pradeep Kori, MW3, who has specifically deposed in para 3 of his affidavit that claimant was engaged by Branch Managers as casual worker only when regular peon was on leave. Claimant was being called for work as and when there was need to do petty work on payment of cash. This witness has feigned ignorance as to whether the claimant has worked continuously from 01.11.1993 to 08.07.2009 with the management, though he has admitted service of notice Ex.WW1/1 on the management regarding regularization of service of the claimant.

8. Now, the vital question before this Tribunal is whether the claimant herein is whether the claimant is a 'workman' within the meaning of section 2(s) of the Act and what is the evidence adduced by the parties so as to prove/disprove this fact. As discussed above, claimant has specifically averred that he is in the employment of the management since 01.11.1997. It is also his case that he was being paid lump-sum amount of Rs.5000.00 per month. He has specifically denied the suggestion that he has not worked for more than 10 days in a month during the period of his engagement. He has further clarified that he was being paid wages in cash and conveyance allowance was being transmitted in his saving fund account and on the date of his termination, he was being paid Rs.5000.00 per month as salary. He has further admitted that Shri Anil was regular peon and Shri Sunil was part time peon in the bank. However, he has emphatically denied the suggestion that he was engaged only when Shri Anil and Shri Sunil were not available in the bank. In this regard, it is also appropriate to refer to the entries in Ex.WW1/15 to Ex.WW1/21 and Ex.WW1/25 in respect of the amount which was transferred in the account of Shri Anil and Shri Sunil. At this stage, it is also appropriate to refer to the statement of Shri Jorawar Singh Mohi MW1, who in his affidavit Ex.MW1/A has deposed that the claimant was engaged by the Branch Manager as casual labour on day to day basis and his services were availed by the bank when ever peon was on leave. He has admitted in his cross examination that payments were made to the claimant on cash vouchers and the same were maintained in the bank. However, bank has not filed the said cash vouchers on the court file. He can produce the said vouchers after tracing the same in the office. The Tribunal has given opportunity to this witness to bring the relevant record regarding payment of salary and other payments to the claimant. He has further admitted in his cross examination that record regarding payments in lieu of work was maintained during his tenure. However, he could not produce record pertaining to the claimant herein. He has further admitted that he was not in a position to bring the record with effect from 01.11.1997 to 08.07.2009 as ordered by this Tribunal. Since claimant herein has come with the specific plea that he was in the employment continuously from 1997 onwards and the case of the management is also clear that he was being engaged as and when need arose on payment of salary/cash payment. In such circumstances, it was incumbent upon the management to have produced the relevant record pertaining to payment of salary as well as attendance record of the claimant. Payment of the claimant, as is clear from the stand of the various witnesses examined by the management, that payment was being made from time to time when needful has been done by the claimant. Management has also not given any reason as to why the said record was not available in the office nor it is the case of the management that the relevant record pertaining to the period 97 onwards has been destroyed in accordance with office orders etc.

9. During the course of arguments learned A/R for the management strongly relied upon the case of Batala Co-operative Sugar Mills Ltd. vs. Sowaran Singh (2005) 8 SCC wherein view was taken by the Hon'ble Apex Court that initial onus is always upon the workman to prove that he has worked for 240 days in a calendar year preceding his termination. As discussed above, this Tribunal has given opportunity to the management to bring relevant record pertaining to the employment as well as attendance payment of salary etc, to the claimant so as to show the number of days during which the claimant has worked in a particular year. This would have really helped the court in ascertaining the nature of work which was being performed by the claimant. Various cash memos which was relied upon by the claimant during the course of evidence also shows that he was being deputed for jobs and cash vouchers were being collected by the claimant and handed over to the management, which thereafter were being paid necessary amounts to the claimant. Perusal of Ex.WW1/15 to Ex.WW1/21 and statement of account of the claimant from the year 2009 onwards, perusal of letter Ex.WW1/22 also shows that the claimant was deputed by the management on 18.11.2006 for office job. Letter Ex.WW1/23 and Ex.WW1/24 shows that duties were being assigned by the management to the claimant in respect of official and miscellaneous work of the bank, which clearly shows that the claimant was doing work for the bank. Various other documents on record also shows that duties were assigned to the claimant and work was performed by him at the behest of the management. The claimant was even having visitor pass to visit Reserve Bank of India as is clear from Ex.WW1/40. Claimant was also taking documents of the bank to other branches as is

clear from Ex.WW1/41. Ex.WW1/42 dated 14.10.2008 also shows that the management deputed the claimant to collect certain data from Clearing House, SBI, New Delhi. To the similar effect is Ex.WW1/43 to Ex.WW1/47. Ex.WW1/48 is letter of the management for enrolment of one Shri Nizamuddin as permanent employee who was performing duties with the bank for 13 years as sweeper and he had made a request for his regularization. Similar request was also made by the claimant herein, which virtually resulted in termination of his job. Claimant has also written letter Ex.WW1/49 to the Zonal Office, wherein he has made a prayer to consider his case sympathetically on humanitarian grounds for absorbing him permanently in the bank.

10. Per contra, learned A/R for the claimant vehemently relied upon the case in Director, Fisheries Terminal Division Vs. Bhikubhai Meghajibhai Chavda (AIR 2010 SCC 1236), wherein Batala Co-operative Sugar mills case (supra) was also discussed. Learned A/R for the claimant also relied upon the case in AIIMS Vs. Uddal (2014 (142) DRJ 569 and Municipal Corporation of Delhi Vs. Ram Milan (Manu/DE/399/2015).

10. Though there is considerable force in the contention of the management that initial onus is upon the claimant to prove that he has put in 240 days continuous service in a calendar year preceding his termination, yet the said onus virtually stood shifted on the management when this Tribunal has specifically ordered the management to produce relevant records pertaining to the claimant but the management has not produced the said documents or assigned any specific reason for non production of the same. In such a situation, this Tribunal is bound to draw adverse inference against the management. Hon'ble Apex Court in the case of YM Yellati Vs. Executive Engineer (2006 1 LLJ SCC 442), has observed as under:

However, applying general principles and on reading the afore-stated judgments, we find that this court has repeatedly taken the view that the burden of proof is on the claimant to show that he had worked for 240 days in a given year. This burden is discharged only upon the workman stepping in the witness box. This burden is discharged upon the workman adducing cogent evidence, both oral and documentary. In cases of termination of services of daily waged earner, there will be no letter of appointment or termination. There will also be no receipt or proof of payment. Thus in most cases, the workman (claimant) can only call upon the employer to produce before the court the nominal muster roll for the given period, the letter of appointment or termination, if any, the wage register, the attendance register etc. Drawing of adverse inference ultimately would depend thereafter on facts of each case. The above decisions however make it clear that mere affidavits or self-serving statements made by the claimant/workman will not suffice in the matter of discharge of the burden placed by law on the workman to prove that he had worked for 240 days in a given year. The above judgments further lay down that mere non-production of muster rolls per se without any plea of suppression by the claimant workman will not be the ground for the tribunal to draw an adverse inference against the management. Lastly, the above judgments lay down the basic principle, namely, that the High Court under Article 226 of the Constitution will not interfere with the concurrent findings of fact recorded by the labour court unless they are perverse. This exercise will depend upon facts of each case."

11. Hon'ble Apex Court in the case of Devinder Singh Vs. Municipal Council Sanaur (AIR 2011 SC 2532), while interpreting provisions of Section 2(s) of the Act which deals with the definition of 'Workman', held as under:

'The source of employment, the method of recruitment, the terms and conditions of employment/contract of service, the quantum of wages/pay and the mode of payment are not at all relevant for deciding whether or not a person is a workman within the meaning of Section 2(s) of the Act.

The definition of workman also does not make any distinction between full time and part time employee or a person appointed on contract basis. There is nothing in the plain language of Section 2(s) from which it can be inferred that only a person employed on regular basis or a person employed for doing whole time job is a workman and the one employed on temporary, part time or contract basis on fixed wages or as a casual employee or for doing duty for fixed hours is not a workman.

12. In view of the legal position discussed above and principles of law enunciated in the rulings discussed (supra), it is clear that the claimant herein has been shown to be daily rated or casual workman would come within the definition of 'workman' for the purpose of the Act and once he completes 240 days in a calendar year, provisions of Section 25F would come into play and non-compliance of the said provisions of the law would be fatal to the case of the management. There is a long line of decisions of the Hon'ble Apex Court that once a claimant is held to be workman and he has completed 240 days in a calendar year prior to his termination, management is legally required to serve one months' notice or salary in lieu of such notice upon the workman and violation or non-compliance of the above provisions would render the action of the management as illegal and void under the law. The factual scenario in the present case projects a dismal picture as management has admittedly not given any notice to the claimant as required under the law nor any salary in lieu thereof has been given to the claimant. Net result of the discussion herein above is

that the action of the management in terminating services of the claimant with effect from 08.07.2009 is held to be illegal and unjustified.

13. Now, the residual question is as to what relief the claimant is entitled to? Since the action of the management herein is totally illegal and against provisions of the Act, as such, this Tribunal is of the opinion that no sympathy can be shown to the management who had hired and fired the claimant in a most arbitrary manner. It is clear from various authorities passed by the Hon'ble Apex Court that ordinary principle of grant of reinstatement with full back wages, when the termination is found to be illegal is not applied mechanically in all cases. While that may be a position where services of a regular/permanent workman are terminated illegally and/or malafide and/or by way of victimization, unfair labour practice etc. However, when it comes to the case of termination of a daily wage worker and where the termination is found illegal because of procedural defect, namely in violation of [Section 25-F](#) reinstatement with back wages is not automatic and instead the workman should be given monetary compensation which will meet the ends of justice. Rationale for shifting in this direction is obvious. Reasons for denying the relief of reinstatement in such cases are obvious. It is trite law that when the termination is found to be illegal because of non-payment of retrenchment compensation and notice pay as mandatorily required under [Section 25-F](#), even after reinstatement, it is always open to the management to terminate the services of that employee by paying him the retrenchment compensation. Since such a workman was working on daily wage basis and even after he is reinstated, he has no right to seek regularization.

14. Since in the case on hand, termination of services of the claimant has been held to be illegal and unjustified, this Tribunal is of the considered opinion that the claimant is entitled to reinstatement with continuity and full back wages. An award is, accordingly, passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : May 18, 2017

A. C. DOGRA, Presiding Officer

नई दिल्ली, 25 मई, 2017

का.आ. 1390.—राष्ट्रपति, न्यायामूर्ति सुरेन्द्र विक्रम सिंह राठौर, पीठासीन अधिकारी, केन्द्रीय सरकार औद्योगिक अधिकरण सह श्रम न्यायालय/राष्ट्रीय औद्योगिक न्यायाधिकरण, मुंबई-I को 02.02.2017 से छः माह तक की अवधि अथवा नियमित आधार पर पद के भरे जाने तक अथवा अगले आदेश तक, जो भी पहले हो तब तक, केन्द्रीय सरकार औद्योगिक अधिकरण सह श्रम न्यायालय/राष्ट्रीय औद्योगिक न्यायाधिकरण, कोलकाता क पीठासीन अधिकारी के पद का अतिरिक्त प्रभार सौंपते हैं।

[सं. ए-11016/03/2009-सीएलएस-II]

एस. के. सिंह, अवर सचिव

New Delhi, the 25th May, 2017

S.O. 1390.—The President is pleased to entrust the additional charge of the post of Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court/Natioanl Industrial Tribunal, Kolkata to Justice Surendra Vikram Singh Rathore, Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court/Natioanl Industrial Tribunal, Mumbai-I for a period of six months with effect from 02.02.2017 or till the post is filled on regular basis or until further orders, whichever is earliest.

[No. A-11016/03/2009-CLS-II]

S. K. SINGH, Under Secy.

नई दिल्ली, 29 मई, 2017

का.आ. 1391.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 जून, 2017 को उस तारीख के रूप में नियत करती है, जिसे उक्त अधिनियम के अध्याय IV (धारा 44 व 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) तथा अध्याय V और VI [धारा 76 की उप-धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी हैं] के उपबंध पश्चिम बंगाल राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

“जलपाईगुडी जिला, पश्चिम बंगाल के सभी क्षेत्र/संपूर्ण क्षेत्र”।

[सं. एस-38013/01/2017-एस.एस.-I]

अजय मलिक, अवर सचिव

New Delhi, the 29th May, 2017

S.O. 1391.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st June, 2017 as the date on which the provisions of Chapter-IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI [except sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following Areas in the State of West Bengal namely :—

“All the areas of the District Jalpaiguri, West Bengal.”

[No. S-38013/01/2017-S.S.-I]

AJAY MALIK, Under Secy.